Center for Ports and Waterways

Primer on Port Regionalization Issues
With Application to Texas

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PRIMER ON PORT REGIONALIZATION ISSUES WITH APPLICATION TO TEXAS

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ABSTRACT

Port regionalization, the combined operations of two or more ports occupying the same body of water, has received little attention in published literature. A number of regions across the country have examined and proceeded with regionalization with varying amounts of success: The Ports of Hampton Roads, Virginia, New York-New Jersey, Duluth-Superior, Philadelphia and Camden, New Jersey, and Houston and Galveston, Texas.

This revised report provides additional information regarding the economic, environmental, and societal factors impacting port regionalization. These factors represent the issues discussed and considered when efforts to unify ports began in the respective regions. The economic factors comprise jobs, economic impact, taxes, competition, carrier alliances, harbor and channel development, container ships, intermodal connections, and revenue bonds. The environmental factors comprise the location and size of ports, dredging, air pollution, and the expansion of facilities. The societal factors comprise organizational form, the loss of identity, and politics.

The recent Houston-Galveston merger on Galveston Bay represents an ideal situation to examine the factors affecting port regionalization. Consequently, this revised report offers insight into the factors pertaining to port regionalization as applied to the Houston-Galveston merger.
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CHAPTER 1: INTRODUCTION

This revised report revisits and describes the major economic, environmental, and societal factors associated with, impacting, and affecting port regionalization. The factors presented herein represent the issues discussed and considered by port officials in various regions of the United States. Some are universal while others are site-specific.

Businesses across the country are using the new millennium as a benchmark for change and development. It is not surprising to see the commerce industry doing the same. Ports appear to be a primary focus of the government in the years to come. In a 1999 report to Congress, the U.S. Department of Transportation heavily emphasized the importance of the Marine Transportation System (MTS). The MTS comprises not only ports and waterways, but also the vessels that sail into and through them, and the intermodal connections that transfer the commodities into, out of, and along the ports and waterways. The MTS is integral to the economic development and job employment of local communities and state governments.

Ports can expect to see a doubling of throughput commodities in the next 20 years of this century. The channels that service the port industry move almost 2.3 billion tons of commerce annually and 99 percent of foreign trade, by volume, moves along these channels. By 2040, that volume could double again. The container industry is seen as the primary sector for moving much of this cargo. According to PIER Port Horizons, TEU volume at U.S. ports increased by over 2 million from 1997 to 1999. In 10 to 15 years, container volume could double and, perhaps, triple in the next 20 years.

In 1970, the port industry contributed $28 billion to the U.S. economy with $15 billion going to the gross national product while employing about 1 million people. Today, the marine transportation system contributes $742 billion to the gross domestic product and employees over 13 million people. As the demand for the trade of goods accelerates, those figures can be expected to increase dramatically.

The significance of the port industry can further be seen in the amount of expenditures invested. Investments represent the port industry’s attempt to meet the country’s growing transportation needs mainly in the form of marine terminal facility improvements and dockside connections. For 1997, expenditures rose 18.5 percent from 1996. In the past three years an average of $1.4 billion has been spent annually on capital improvements. For the years 1998-2002, projected expenditures will be the
highest on specialized cargo, including container shipments. Dredging will account for the highest increase in terms of the percentage of expenditures spent on projects. The port industry is investing in the development and modernization of handling cargo, infrastructure improvements, and dredging.\textsuperscript{10} The industry's focus on these factors is important when considering regionalization.

\textbf{Defining Port Regionalization}

There is no true way to define regionalization. The definition may vary from site to site and from person to person. Terms such as regionalization, consolidation, unification, and merger have been used interchangeably. This report interprets all references to merging, consolidation, and unification as regionalization.

The incorporation of a smaller port into a larger one is not always the case. Regionalization may involve the merger of a number of similar sized ports.

\textit{This report defines port regionalization as the merging of two or more ports that occupy the same river, bay, or harbor.}\textsuperscript{11}

\textbf{Benefits of Regionalization}

A regionalized port can potentially maximize its land use, improve its infrastructure, and increase capital while avoiding the price wars that accompany competition. A regional port can not only solve geographical disputes and eliminate rate wars, it can eliminate impediments to shipping certain commodities, attract regional manufacturers, provide better shipping services, and improve navigation safety. Merged ports can also improve industrial planning, promotion, and development.\textsuperscript{12} A regionalized port also allows for flexibility. For example, when critical cargo needs offloading and dock space is limited or the channels are blocked, a regional port has the option of moving cargo to one of the other terminals within the port system.\textsuperscript{13} For example at the Port of Hampton Roads, the general assembly of Virginia felt there was inadequate funding for port development. The addition of containerization and the need for at least one other east coast container terminal prompted the state legislature to redirect their approach to port operations.\textsuperscript{14} The Virginia Port Authority (VPA) and Norfolk saw unification as a way to solve this problem.

Another benefit from regionalization is that the effort both removes and promotes competition. Regionalization removes competition among the merged ports in a smaller region and promotes it with other nearby larger regions. For example, a regionalized
effort between Houston and Galveston eliminates competition between the two on Galveston Bay. The merger may create a megaport facility and intensify competition with another potential megaport facility on the Gulf of Mexico, the Port of New Orleans. Conversely, ports along the western coast of the U.S. do not merge because they are in healthy competition with each other. For example, ports such as Long Beach and Los Angeles, California are not merged. On the other hand, the desire for greater economic returns and the ability to effectively compete globally drove the merger efforts for the Ports of Philadelphia and Camden, New Jersey.

For the ports to retain their competitive edge they must provide the best facilities to the carriers. With Los Angeles and Long Beach dominating the west coast, the Port of Oakland needed to expand its facilities to better compete since the ports were becoming congested. One way for Oakland to increase its market share would have been through a regionalized effort on San Francisco Bay.

Another benefit from regionalization is the added revenue, especially to those ports in need of assistance. The economic impact of regionalization often favors smaller, less prosperous ports by allowing larger ports to assist them. Examples of this include Houston and Galveston, San Francisco and Oakland, and Duluth, Minnesota and Superior, Wisconsin.

A final advantage to regionalization is the reduced impact on the environment. The Galveston Bay Conservation and Preservation Association (GBCPA) and the Galveston Bay Foundation (GBF) support regionalization on Galveston Bay. Their approaches address the same concern: if a megaport facility is to be developed on the bay, then only a regionalized effort can adequately examine the entire region and determine not only the best environmentally sound location but also the most practical and economically viable. A regional economic system benefits the entire area without destroying the ecological base. A decision left up to a single, unregionalized entity, such as the Port of Houston Authority, may not necessarily reflect the best interests of that region.

**Alternatives to Port Regionalization**

In addition to regionalization, there exist a number of alternatives that ports may want to consider including regional planning, diversification, and a statewide financing program. One example of regional planning not associated with unification occurred in Virginia. The unification at the Port of Hampton Roads involved three terminals. In 1989, the Virginia Port Authority opened the Virginia Inland Port in Front Royal as an intermodal container distribution center. The port used the VPA’s strength, regional scope, and cooperation to create an efficient intermodal hub. The investment in 1989
by the VPA showed the state's commitment to establishing itself as a major transportation port for both national and international cargo.

A second alternative to regionalization is diversification. Diversification may focus on establishing a niche market, creating port land development projects, or creating public access areas. Smaller ports that view regionalization as an answer to their economic struggles may turn to diversification as an alternative to regionalization. Two examples illustrate diversification at smaller ports: the Ports of Everett, Washington, and Hood River, Oregon. At Everett, Washington, rather than handle cargo, the port renovated its facilities for other purposes such as storage, hotels, restaurants, and other commercial complexes. As of 1995, Everett projected $39 million in annual wages as a result of the construction of a cold-storage facility. At Hood River, Oregon, the port focused its efforts on tourism and windsurfing since the timber industry was shipping more logs through larger ports and more cargo was moving in containers. The Port of Hood River projected windsurfing direct expenditures alone to increase nearly 375 percent from 1987 to 1995.

A third port-related program is a statewide finance program. Two examples include Louisiana and Florida. In Louisiana, the state created the Port Construction and Development Priority Program aimed at smaller ports. Finance for the program comes from the Transportation Trust Fund, generated from proceeds related to fuel sales and redirected to various modes of transportation, which include ports. The Port of New Orleans, the state's largest port, was exempt from participating for the first five years. A second program, the Transportation Infrastructure Model for Economic Development (TIME), funded by an increase in the gasoline tax, provided the Port of New Orleans $100 million for port projects provided it did not participate in the Port Construction Program. The Port of New Orleans was also required to put up matching funds for the money provided by TIME. The success of TIME has prompted benefactors to call for its continuance or the creation of a similar program. Currently, TIME is funded through 2009.

In Florida, the Florida Seaport Transportation and Economic Development Council, comprising all public deepwater port directors as well as commerce, transportation, and community affairs secretaries, administers the Florida Seaport Transportation and Economic Development program. The program was created after the state legislature agreed that a unified state port industry, acting in cooperation with all ports, would benefit the state. The grant-money program is used for land or capital-good acquisitions, improvements to facilities, dredging, or other infrastructure projects that improve movement and intermodal transportation of cargo or passengers within Florida. The council is responsible for deciding what projects across the state will be
funded. In the first five years of its existence the program has allowed larger ports to quicken the completion of projects and has allowed smaller ports the possibility of completing projects they otherwise would not have been able to. Since its inception, only one of Florida's ports, the small Port St. Joe, has not used the program.

Regionalized Ports

The following section includes description of ports that have successfully regionalized and those that attempted regionalization. The successful ventures include New York and New Jersey and the Port of Hampton Roads. The less successful attempts include Tacoma and Seattle, Washington, the ports in Duluth, Minnesota, and Superior, Wisconsin, and the San Francisco Bay region. An on-going attempt includes Philadelphia and Camden, New Jersey. A proposed merger is on the books between the ports of Houston and Galveston on Galveston Bay. A more detailed description of the proposed Houston-Galveston merger, and the factors associated with it, appears later in this report.

Port of New York-New Jersey

In 1921, the ports at New York and New Jersey decided to merge their operations to become the first regionalized port in the country. The Port Authority of New York-New Jersey is a bi-state agency formed to promote trade and commerce in the entire port region and directly oversees the operation of seven cargo terminals in the New York-New Jersey region. The Port of New York-New Jersey currently represents the only bi-state agency.

Port of Hampton Roads, Virginia

The Port of Hampton Roads, Virginia, comprises Newport News Marine Terminal, Norfolk International Terminal, Portsmouth Marine Terminal, and Virginia Inland Port in Front Royal and is operated by Virginia International Terminals, Inc. VPA, reporting to the Secretary of Transportation, owns the four ports and represents the best example of successful port regionalization. Initial attempts at unification, as defined by the VPA, started in the late 1960s and early 1970s. Final ownership of the ports occurred in 1982.
Ports of Philadelphia and Camden, New Jersey

The ports at Philadelphia and Camden represent a corporate entity comprising the Philadelphia Regional Port Authority, the South Jersey Port Corporation and the Delaware River Port Authority (DRPA). The ports exist as a department under the jurisdiction of the Delaware River Port Authority. In 1994, the ports initiated steps to unify within two years and to eventually become the Port of Philadelphia and Camden. By 1998, the ports existed as a unified entity in name only. There currently exists no formal regionalized organization yet plans to complete the merger continue.

Port of Duluth-Superior

The Port of Duluth-Superior lies at the westernmost point of Lake Superior and incorporates docks occupying the same harbor in both Minnesota and Wisconsin. The Duluth Seaway Port Authority represents the entity governing the operational aspects of the port and promotes its collective interests with the exception of financial interests and land development. The region is one port for federal purposes such as dredging, customs, navigation, safety (Coast Guard), and immigration. The cities of Duluth and Superior remain separate entities. The city of Superior has an inactive, on-paper entity known as the Superior Harbor Commission that is not affiliated with the Duluth Seaway Port Authority. In the 1970s, the Duluth Seaway Port Authority and the Superior Harbor Commission attempted a merger to create a bi-state agency similar to New York-New Jersey. The attempt was not successful.

San Francisco Bay

Although no regionalized effort was officially proposed, the mayor of San Francisco, Willie Brown, used the issue of a port regional plan as part of his mayoral campaign in 1995. The idea was to combine under one authority the port of San Francisco with those in Oakland, Sacramento, and Stockton, California. The more realistic approach would have been San Francisco and Oakland combining to form the Golden Gate Port Authority.

Ports of Tacoma and Seattle, Washington

The Ports of Seattle and Tacoma lie approximately 50 miles from each other on Puget Sound. No formal talks have been discussed between the ports. The ports, however,
work collectively on a number of projects affecting Puget Sound and the state of Washington. The ports often dismiss talks of merging citing the loss of autonomy as the motivating reason.
CHAPTER 2: THE FACTORS

This chapter comprises the economic, environmental, and societal factors associated with port regionalization. The factors apply to regions that have attempted mergers, are currently undergoing a merger, and those that have successfully merged.

Economic Factors

The economic factors associated with port regionalization include jobs, economic impact, taxes, finances, competition, carrier alliances, dredging, taxes for dredging, container ships, and intermodal connections.

Jobs

Port regionalization and expansion has the ability to create new jobs. On the other hand, one factor often pointed to for a reason behind regionalization is the "reduction of effort." The Port of Philadelphia and Camden (PPC) cites job redundancy as a prime factor behind its intent to regionalize the area. One possible reason why the merger is not completed is that jobs were not cut nor was administration streamlined as intended. However, in 1996 the PPC stated that unification of facilities on both sides of the Delaware River would create "family-sustaining jobs." Redundancy would have been in the form of administrative jobs only. Currently, the two ports employ approximately 54,000 workers. Marketing of the ports as a regionalized entity aids in the ability to attract cargo, which in turn can increase employment.

The ports in Long Beach and Los Angeles routinely dismiss the California capital's idea of merging the two in order to cut down on duplication of staff. The ports are too large as single entities and generate a significant amount of funds to their respective communities.

The measure of a port's success, whether regionalized or not, cannot be truly dependent on the number of jobs created. With technological advances and automation, ports have the ability to increase their productivity and efficiency, thus their revenue, with fewer personnel. For example, the Port of Duluth-Superior during the 1940s brought in coal from the lower Great Lakes area along 20 docks employing an estimated 2,000 dockworkers. In 1999, using an automated coal facility called the Midwest Energy Resources Company, the port exported more coal than the amount imported in the 1940s. Today, the entire facility employs 65 people from top management down to the dockworkers.
In addition to the actual number of jobs, it is important to note where the jobs are located. For example, in New York-New Jersey 45 percent of the jobs at the port are blue-collar and located on the New Jersey side of the harbor. The remaining 55 percent are administrative positions and are found mainly in New York. The success of a port based upon employment numbers is often looked at in terms of the number of blue-collar jobs. Administrative jobs are more likely to be lost as a result of ports merging. To see this kind of uneven distribution is misleading, inaccurate, and may lead to the polarization of issues between two merged ports.

The idea, however, that port regionalization and expansion creates new jobs is important and must be considered in any kind of endeavor. Without seeing people put to work, the community and possibly the counties and states, may not support a merger. A key measure of a port’s economic and industrial success will continue to be based upon the number of jobs until there is a way to incorporate the following: the effects of the increase in the size and speed of ships, the reduced time spent in port, the impact of the reduced labor force both on the ships and the docks, the advancement of dock facilities, the improvement in the environment, and the cleanliness of the facilities.

**Economic Impact**

Economic impacts emerge in many forms. Some examples from the regionalization effort in Virginia include:

- Between 1973 and 1978 the annual growth rate for facilities along Hampton Roads was 2.1 percent. Other regional ports along the east coast had an annual growth rate between 3.3 percent and 8.5 percent.
- Additionally the port saw a decline of its containerized cargo from 23 percent to 18 percent during the same time period.
- Since unification, the port has seen a growth of over 350 percent in cargo tonnage.
- Five years after the merger that brought the Port of Newport News under the Virginia Port Authority, the port has seen cargo tonnage double and man-hours have increased. Though these statements appeared in an ad sponsored by the VPA, the local International Longshoreman Association (ILA) states that cargo tonnage was up but man-hours were down.
- The Port of Hampton Roads saw a tripling of cargo tonnage over a 10 year period. Since the inception of the merger, cargo volume has grown from 2.4 million to over 11 million tons.
• By 2010, cargo tonnage at the port may grow to 16 million tons. Prior to the unification, the port saw a decrease in cargo tonnage.\textsuperscript{31}

• As a result of its effort, the port moved from sixth to second in general cargo tonnage for ports on the east coast. The port retains the highest volume on the east coast.\textsuperscript{32}

The Port of New York-New Jersey has seen the following impacts:

• An almost 11 percent increase in container cargo from 1998 to 1999 was offset by the high dredging costs for the marine terminals resulting in an almost $30 million loss for the port.\textsuperscript{33}

• The port saw a $34 million increase in revenue from tolls, fees, and rents from 1997 to 1998.\textsuperscript{34}

• For the first time container traffic passed the 2 million TEU mark. The increase represents a 7.9 percent rise in volume from 1998.\textsuperscript{35}

• With authorization from the U.S. Corp of Engineers, the dredging to 45 feet around the port will bring in 4.58 million TEUs annually by 2010, an increase of 99 percent over 1998 volumes. Dredging to 50 feet will increase cargo volume to 5.44 million TEUs, an increase of 136 percent over 1998 volumes.\textsuperscript{36}

Economic impact is not always positive. A smaller port fears a loss of revenue if merged with a larger port.\textsuperscript{37} Though the pool of money generated as a result of a merger may be bigger for both ports, the smaller port’s share, when compared to generating the revenue independently, may be less if combined with another port. A larger port can provide money to a smaller port to fund a niche market. In return, the smaller port provides something the larger port needs, such as additional land access. For example, if a regional effort was put together between the Port of Freeport and the Port of Houston, Houston could benefit from the additional land access provide by Freeport.

In some cases a port will not regionalize because the economic impact is not significant enough to all parties involved. One example of this was the San Francisco Bay region. Port officials from the region stated that a combined entity between Oakland and San Francisco would allow the ports to attract expansion capital that San Francisco alone would not be able to muster. However, when officials reviewed and analyzed the impact of a merger on San Francisco Bay, they determined that there
would be no significant economic impact to the Port of Oakland. As a result no merger took place.

The lack of need for economic gain may also lead to ports not merging. Long Beach and Los Angeles, ranked one and two in total cargo value, are neighbors separated by city boundaries and repeatedly dismiss the idea of merging. Along the east coast, sizable ports in terms of cargo tonnage and value lie within 100 miles from each other on average. None of the east coast ports between Hampton Roads and Jacksonville, Florida, have ever considered merging.

A number of cases where regionalization was attempted, discussed, or completed involved one higher revenue-generating port merging with a lower revenue-generating port. Examples include San Francisco and Oakland, Duluth and Superior, Houston and Galveston, and Virginia. San Francisco wanted to re-enter the container market and increase its cargo stream. After carrying less than 5 percent of cargo stream in the San Francisco Bay region, the port wished to increase this amount to 15 percent, which was the maximum amount that could be handled. San Francisco’s proposal was that the Port of Oakland operate the San Francisco facilities and in effect guarantee that 15 percent of the volume would travel through these facilities. At the time the Port of Oakland was experiencing congestion, and San Francisco had vacant facilities. This presented an opportunity for the two ports to work together in a beneficial relationship. In Minnesota, the Duluth Seaway Port Authority would have helped the port and city of Superior, Wisconsin. A bi-state authority would have brought additional revenue to both sides of the harbor, but the Duluth Seaway Port Authority would benefit the most. In Texas, the Port of Houston Authority is assisting the Port of Galveston. In Virginia, Newport News and Portsmouth were smaller ports than their neighbor Norfolk. The smaller ports felt both domination and unfair treatment by Norfolk. Conversely, Norfolk felt money brought in through their terminal would be spent unjustly on the smaller ports. The state of Virginia made subsequent assurances that all cities be treated fairly.

Not all regionalized efforts involved one strong and one weak port. In Philadelphia and Camden, both sides of the river were bringing in significant cargo. Philadelphia, however, had more cargo tonnage than Camden. That was not the economic reason for merging. While discussions continued, in 1997, the New Jersey side of the Delaware River made a profit while Philadelphia relied solely on government assistance. One intention of the merger was to eliminate such assistance in the form of state-supported grants.

One difficulty in measuring economic impact is determining how much of the revenue is actually returned to the port. This problem involves absentee owners of
facilities along the dock. At Duluth-Superior, almost all facilities are absentee owned and are field locations of the parent corporation. Local residents minimally staff these facilities. With technological advances and higher productivity, the facilities generate sufficient revenue, pay the local staff quality salaries, and take the remaining money and reinvest it outside of the immediate port region. Even though a high amount of revenue flows through the port it does not necessarily mean the port, or the authority in charge, is responsible nor can the port take credit for the economic impact.

Taxes

An additional economic impact is the distribution of tax revenues. A bi-state or even a bi-county agency has the difficult task of determining where tax dollars generated from the agency are to be used. When legislation was first created to approve the formation of the Ports of New York-New Jersey, the compact stated the new agency would not have any taxing authority. This inability to levy taxes provided the new Port of New York Authority with a significant amount of independence. The new authority could charge rent and collect tolls on its terminal and transportation facilities to partially support bonds. The bonds would be used to finance port development and modernization.

However, when two states or counties do merge, the creation of a new taxing district is required. Though an authority has jurisdiction over and operates in two states, such as in New York and New Jersey, Pennsylvania and New Jersey, or Minnesota and Wisconsin, where to spend the taxes is hotly contested. Would taxes go to the individual ports, the cities represented by the ports, the counties or the states, or some combination thereof? How much or what percentage of the taxes will be sent to which jurisdiction? Once when, where, and how much have been decided, it is possible that tax money sent back to the authority for use in the port may have to be repaid to the city or county that it came from. For example, one issue labeled the most controversial and potentially disadvantageous between Minnesota and Wisconsin concerned how taxes were to be levied for the new commission (i.e., the one formed if the merger had gone through) and on whom. Despite the advantage of access to land for expansion for Minnesota, the issue of where taxes were to be used overshadowed other benefits.

Finances

In the 1977 compact that would have merged the operations of Duluth and Superior, the Interstate Port Authority Commission resolved all issues with the
exception of port financing. The ports had a huge discrepancy in the magnitude of operations. In 1976, Duluth had an operating budget nearly 24 times that of Superior (over $400,000 compared to about $17,000, in 1976 dollars) with significant assets and liabilities. A memo discussing financing schemes created a number of different arrangements. The final scenario, after considering all options and presenting acceptable alternatives, resulted in the Port of Duluth paying $120,000 for port services from its general revenue and the Port of Superior paying $80,000 to a new port authority. The city of Superior’s inability to authorize further port funding coupled with the lack of contributions from the state of Wisconsin are the main reasons why the merger was unsuccessful.

Competition

Merging may not only eliminate a chief competitor, it may create a larger conglomerate. At the Ports of Philadelphia and Camden, one of the intentions behind merging was to increase the competitive position of the ports in relation to other regional ports such as New York-New Jersey. Competition did not exist between the ports on each side of the Delaware River. The ports had worked on a number of issues together, and there was some cargo overlap. In recent years, the cooperation between the ports has increased tremendously.46

On Puget Sound, where Seattle and Tacoma are not merged, it is apparent that the two ports work together to combat the competition they receive from Vancouver. In the Pacific Northwest there is not a large consumer market thus 70 percent of the container market is moved out of the region.47 That cargo does not necessary need to come through Seattle and Tacoma; the cargo may move through Vancouver. Vancouver has created aggressive pricing with Canadian railways to lure carriers away from Seattle and Tacoma. In addition, Canada does not have the harbor maintenance tax. The Ports of Seattle and Tacoma also work together on other issues including rail transportation.48

One intention behind the merger of New York and New Jersey was to prevent destructive competition. Separate ports would have driven rates higher in New York essentially forcing shippers to go to New Jersey where costs are cheaper. New Jersey, not having the modern piers and rail connections at the time, would have driven shippers elsewhere such as Baltimore or Philadelphia where there was greater capacity. Today, the division of the two states would be counterproductive to the
region. It is not surprising that in 1917 the Interstate Commerce Commission effectively forced the region to merge. By declaring the industrial district in northern New Jersey and New York a single community historically, geographically, and commercially, the region was compelled to solve its problems along the harbor.

Hampton Roads used regionalization to eliminate competition among the three terminals and to intensify it with other northeastern U.S. ports such as New York-New Jersey. In 1969, the Virginia General Assembly commissioned a study that determined that a multi-agency port system in place at the time would lead to unnecessary competition. In the early 1980s before unification, Hampton Roads was ranked sixth on the east coast in cargo tonnage, mainly containers. After unification Hampton Roads' cargo tonnage increased to second behind New York. As a result, ports such as Baltimore, Philadelphia, and Boston lost a portion of their container market share to Hampton Roads.

Carrier Alliances

Much along the same thread as port mergers and consolidations, carriers are seeking alliances to streamline operations and increase revenue. The big shippers, driven by the changing trends in the container market, need to reduce per-unit costs and maximize their economies of scale. Partnerships and mergers appear as one way to accomplish this goal. Carrier alliances have a strong impact on port operations. These alliances create a larger entity with more clout, which have the ability to put ports in competition with each other to attract their business. To accommodate the carrier alliances, ports need large capital investments to meet their demands. Though alliances may eventually drive down the final cost to the consumer, the tax increase needed to subsidize port investments may outweigh the benefit. One response to this trend is port regionalization.

The number of large, multi-carrier alliances may also decrease the number of ports requiring container terminals. Industry analysts predicted only five major alliances in the next 10 years. The trend toward port regionalization is an additional concern being felt mainly at smaller ports that do not have the capital or infrastructure to compete with larger ports. Hence, merging may help them stay competitive during the times of carrier alliances.

Merged carriers can put competitive pressure on major ports to attract their business. A merged carrier consolidates its efforts, ships more cargo at one time, and docks at fewer ports. Several examples of this increased competitiveness can be seen when examining Sealand-Maersk's decision on where to locate its new container
facilities. Both Los Angeles and Long Beach competed for their business. Los Angeles eventually won the contract. Sealand-Maersk also placed heightened competition between New York-New Jersey, Halifax, and Baltimore. Though Virginia at one time was considered, the port was not hurt by Sealand-Maersk's decision to develop at New York-New Jersey. An example of a carrier alliance hurting one port and aiding another occurred between Charleston and Savannah. The results of a recent merger involving Grand Alliance and Americana Ships created a shift in TEU volume from one port to another. Charleston lost 6.5 percent of its volume while Savannah gained 10 percent.

The ability for a port to remain financially sound will become more difficult as large, merged carriers leverage their expanding cargo volumes against ports in order to get the lowest possible lease price. The best example of this can be seen on the west coast. Rather than risk financial loss, the Port of Long Beach made its best offer to Sealand-Maersk and accepted the results. Although the port lost out to Los Angeles, it realized that other major tenants would need the same type of facility.

**Dredging**

Dredging and the money needed for it will drive the push to regionalization. Smaller, less productive ports that need increased and regular maintenance dredging to remain competitive will struggle in the market without adequate financial backing because of the increased costs of dredging and dredge disposal. As the pool of federal money for dredging diminishes, those ports showing a good cost-to-benefit ratio will get the money first. It is possible that regionalized ports may have a better chance of keeping their cost-to-benefit ratios higher. "Those ports not showing a good cost to benefit ratio for dredging will not get funding," said Pete Reixach, port director for Port Freeport.

The importance of deeper channels can be seen in the following statistics. Each foot of increased depth allows ships, depending on the type, to carry an additional 8,000 barrels of oil, 250 TEUs, or an additional 300,000 pounds of general cargo.

The Port of Sacramento stated as a positive benefit for a unified effort between their port and that of San Francisco, Oakland, and Stockton the ability to create expansion capital for projects such as dredging. Had a merger been successful, the region would have produced a better cost-to-benefit ratio and created a larger regional fund. From that fund the port could extract the extra dollars needed to dredge the channels at Sacramento from 30 to 35 feet. Though not conclusive, the addition of the City of Texas City into a Galveston Bay merger may have allowed the other ports to
take advantage of Texas City's authorization to dredge to 50 feet. If the merger had gone the way of Texas City, the Port of Houston Authority may have been able to send its revenue to Texas City to fund the dredging. The dredging is needed as part of the development of a container facility on Shoal Point.

The Port of Hampton Roads has some of the deepest channels in the country with authorization to go deeper. The port attributes its success to the deeper channels. For the Port of New York-New Jersey, the deepening of its channels has been met with opposition. Often, environmental concerns arise and actively block dredging. For a time in the mid 1990s, environmentalists effectively shut down the port during discussions on expanding the channel.61 The politics of the situation, in turn, drove away carriers. The increased depth, however, will be needed since Sealand-Maersk has opted to build a mega container terminal on its docks. Part of a $7 billion infrastructure improvement investment covers the deepening of its channels.62

However, not every port can use internal funds to pay for dredging; that privilege belongs only to the largest ports. The remaining ports depend more on the new Harbor Service Fee.

Taxes for Dredging

Officials in the maritime industry agree that deeper channels must exist so ports can handle the larger ships. In turn, it is the larger ships that support the port in the market place.63 Currently, in the federal legislature is the new Harbor Service Fund (HSF), which is primarily directed at dredging costs to replace the unconstitutional Harbor Maintenance Tax. Unlike the Harbor Maintenance Tax, the HSF is not a tax but an assessment made on a vessel for its use of the harbor rather than the cargo the vessel is carrying. The primary users of federal channel and harbor projects, namely the commercial vessel owners and operators, will pay the Harbor Service User Fee, through which the HSF will be supplied. The fee is based upon ship size, movement frequency, service demand, and the operational characteristics of particular vessel categories. The repealed Harbor Maintenance Tax put a fee on the cargo the vessel exported instead of on the vessel itself. The new fund will generate about $980 million a year to finance the costs of dredging.64 The fee puts the burden on the carriers of waterborne commerce to support a port system that benefits the entire country.65

The Water Resources Development Act (WRDA) is another way for ports to fund dredging projects. The WRDA is the means by which Congress authorizes dredging projects, both new and construction maintenance. Funds for these projects come from two sources. New construction dredging is paid from the Harbor Maintenance Trust

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Fund while the Inland Trust Fund pays maintenance dredging. Ports can either pay for the total cost of dredging or have the government pay according to WRDA authorization. The WRDA requires ports to share anywhere from 25 to 60 percent of the total costs. The act shifts part of the responsibility of channel deepening projects from the federal government to the ports, through the development of a cost-sharing formula with a local partner. Since its inception in 1986, the WRDA has authorized over 45 channel development projects.66

Port officials, carriers, and shippers tout the WRDA.67 Conversely, the approval of the Harbor Service Fee may delay or eliminate expansion and improvement projects in areas such as Oakland, Baltimore, Savannah, and Jacksonville.68 For Oakland especially, the fee would require the port to search for outside funding in order to maintain current contracts. At the same time, delays in yearly enactments of the WRDA will unnecessarily add to the cost of projects and will also defer needed transportation cost savings, job creation, and economic development in communities across the country. It is not surprising to see port authorities opposing an industry-supported fee.

Port authorities feel any kind of recovery fee would harm many ports. Depending on how the fee is calculated will determine what ports are affected. First, costs of dredging may be calculated based upon congressionally authorized fees that depend on the specific project. With dredging costs and extents varying between ports, this type of recovery fee could harm the competitive relationships.69 Areas that demand the deeper channels to retain their competitive advantage, such as Hampton Roads and New York-New Jersey, would be more affected than smaller ports such as Baltimore or Boston. On the west coast with naturally deep channels and where competition is great, the idea of project-specific fees is beneficial. The Harbor Service Fee, which taxes imports based upon value, harms the larger ports in the west because they bring in the greatest value of cargo and do not need to be dredged.70

A second approach to collecting money for dredging is a system-wide assessment. This approach harms smaller ports with lower dredging costs because it subsidizes dredging for other ports at their expense. The system-wide approach would not affect inter-port competition, especially for larger ports. Regions, such as Duluth-Superior and San Francisco Bay, could be seriously affected. Both of these regions have one port more dominant than the others. Though unfounded, mergers may have alleviated the concerns of the smaller ports by creating a larger port system capable of attracting the money needed for dredging without feeling the adverse effects on their revenues. Regions wishing to consolidate or unify their efforts may want to consider the impact of the eventual Harbor Service Fee, or whatever moniker is finally attached.
Whether the new Harbor Service Fee is approved or not, the idea of taxing imported cargo affects carriers, shippers, and customers. The former tax and the potential new fee have also driven carrier and cargo owners to foreign ports of call. In Canada, no taxes are collected on imports. The Ports of Seattle and Tacoma, which are mandated to assess this tax, have seen cargo diverted to Vancouver. Seattle and Tacoma must not only deal with aggressive pricing from Canadian railroads, the ports must face the Harbor Service Fee. The fee, potentially based upon the size of a ship, would cost somewhere between $100,000 and $150,000 per vessel per call. Carriers not wishing to pay that cost or pass it onto customers have chosen to move to the north. This situation, however, affects only those ports in close proximity to other countries. It is possible that Texas ports could feel this impact as competition builds with ports in Mexico.

Container Ships

Over the past 30 years containerization has become a popular form of waterborne commerce. The U.S. Department of Transportation predicted in 1998 that nearly 90 percent of all goods by the year 2010 would move via container ships. Worldwide container trade has grown nearly 10 percent per year for the last 10 years with a continued 8 percent growth rate into the next century. To accommodate the increase in commerce, the number of ships is increasing nearly 10 percent per year mainly in the form of giant container ships, or megaships. The megaships, roughly defined as ships holding anywhere between 4,000 to 6,000 TEUs, serve mainly long distance high volume routes. In the four years since 1996, the capacity of container ships will be almost 34 percent higher. By 2010, nearly 30 percent of all cargo will be handled by ships with 4,000 TEU capabilities. Of that 30 percent, 9 percent will be by ships greater than 6,000 TEUs in capacity. The most popular size of ships appears to 5,500 TEUs based upon current market orders and industry trend analyses.

Nonetheless, the ships, ranging from 5,200 to 7,000 TEUs, already ordered indicate an upscale move to containerization. As of 1999, the largest ship in terms of capacity stands at 7,060 TEUs. The ports with the ability to accommodate the largest ships will not miss out on the money generated by them. The ports with significant channel depths, ranging from greater than 45 to 55 feet, will be the ones in the most advantageous position. The draft of megaships holding anywhere between 4,000 to over 6,000 TEUs averages 44 feet, a substantial amount considering the current depth of most port channels and harbors. Numerous ports, including Houston, are currently dredging to 47 feet. That leaves a 4.3-foot clearance, an insufficient amount
considering the effort required to maintain the channel depth. Along the east coast, the Port of Hampton Roads already maintains a 50-foot outbound channel with authorization to go to 55 feet.\textsuperscript{82} On the west coast, the Port of Seattle received permission from the Army Corp of Engineers (ACE) to dredge to 51 feet at a number of channels between terminals as well as the berths at the terminals.\textsuperscript{83} Port officials in Seattle state the extra depth is to handle the next generation of containerships. The Port of New York-New Jersey has to expand its channel to 45 feet and beyond to accommodate Sealand-Maersk’s recent decision to build a mega container terminal at their port.\textsuperscript{84} The port has plans for 50-foot channels but this may not be completed until 2015. Not every port needs to be regionalized or unified to attract the large ships, as seen in Seattle. Being a regionalized port helped Hampton Roads generate the funds necessary for dredging. On the other hand, the City of Texas City, a non-regionalized port, has attracted private investors to fund its container terminal and has permission to dredge to 50 feet.

The need to dredge to 50 feet, however, may not be a necessary requirement for all ports. Ports wishing to attract the Panamax class ships will continue to do so without dredging any further. A fully loaded post-Panamax ship requires anywhere from 46 to 50 feet of channel clearance.\textsuperscript{85} The Panamax class comprises 2,500 to 4,000 TEU ships, sufficient in size to navigate the Panama Canal. The tonnage moved by the Panamax size class is expected to quadruple by 2010 by maintaining its current share (as of 1990, 36 percent of the cargo). At Atlantic ports with considerably shallower channels, container demand will triple by 2010 of which the Panamax class ships will handle the largest share.\textsuperscript{86} Ports than can market their facilities for these ships will not miss out on the business generated by the newer megaships.

\textit{Intermodal Connections}

Rail and trucking companies benefit from port regionalization since any increase in cargo volume through the port will mean an increase in business for them as well. For example, if a megaport container facility is built in Houston rather than at its possible new neighbor, Texas City, i.e., Shoal Point, the Texas Terminal Railroad, which owns and operates the Port of Texas City, will get the new cargo. What may be important to the operations of a regionalized port is the quality and efficiency of the intermodal services. Those ports in cities with smaller population bases have better intermodal infrastructure due, in part, to the lack of congestion often associated with smaller populated regions.
A tie to port regionalization is how the port successfully attracts and satisfies the carriers. As container shipping dictates the market, a regionalized port will be in a better position to remain successful. In Virginia, the port anticipates a 300 percent increase in intermodal volume by 2010. Additionally, nearly 92 percent of the port's tonnage comes from containers.

Other connections between intermodalism and regionalization include those associated with rail. Recommendations related to intermodal connections and port development in Virginia indicate allowing multiple rail carriers to access to all VPA facilities which would enhance competitive pricing and increase service options. The 2010 Plan for Virginia also includes developing better on-terminal rail access. On-terminal access cuts down on the time cargo goes from the ship to its intermodal form of travel. For the carrier, on-line access is the key to any new port facility. The ability to attract carriers is linked to the increased use of intermodal rail especially if the facilities have the ability to double-stack containers on the dock. The lack of sufficient intermodal access, especially rail, may hamper future plans between Houston and Galveston. One downfall of the attempted merger on San Francisco Bay was the Port of San Francisco's lack of efficient rail service. The relatively densely populated city does not have room for the kind of rail access a large port needs.

The need for improved intermodal rail access has spurred mergers between railroad companies. Examples of mergers include Union Pacific with Southern Pacific, Burlington Northern and Santa Fe, and KCRC and TMM, and the division of Conrail to form Norfolk Southern and CSX. These mergers, along with the carrier alliances, have paved the way for additional long-term partnerships between other railroads and possibly ports. Additionally, only those ports with the ability to handle the mega container ships will be able to supply the increased rail access that is demanded in today's shipping market. The deep-water channels and the 30 miles of on-dock rail service allow the Port of Hampton Roads to be an excellent location. New York-New Jersey, with its recent addition of Sealand-Maersk, is also an ideal megaship terminal with efficient intermodal transportation.

Environmental Factors

Not all factors have a direct impact on the environment; more so it is the location. Two examples of this include the proximity to the open ocean and other ports, and the current size of the port. Factors that may have a direct impact on the environment include the expansion of the facilities, air pollution, and dredging, among others.
The construction of new facilities means heavy environmental impacts. When an agency such as the U.S. Army Corp of Engineers performs an environmental impact statement or environmental assessment, the first environmental factor often considered is not air pollution. Rather, the first issues addressed concern navigation and wetlands. Navigation includes vessel operations along waterways and associated estuaries. Whereas wetlands refers to low land areas such as marshes or swamps adjacent to the channels and estuaries that could be affected by vessel traffic. Next on the list are water quality and the cultural and historical significance of neighboring properties. The reason these issues arise first is because they are universal to every port region. All ports have navigation routes and exist near water. The majority of the ports across the country exist in estuarine-like conditions. Associated with the geomorphology of estuaries are marshes and wetlands.

*Location*

Shippers want to be closer to the open sea. The proximity to the open ocean is desired because speeds are severely reduced on inland waterways. A number of ports demonstrate this advantage. First, the Port of Hampton Roads cites its proximity to the open ocean as one reason for its success. Second, the Ports of Los Angeles and Long Beach lie adjacent to each other and have direct access to the open ocean. Third, the Port of New Orleans proposes its megaport at a location closer to the mouth of the Mississippi River than its current site further inland. The preferred Millennium Port site would cut transit times in half.

On the other hand, for intermodal transportation the best port location may depend on how far the cargo travels from the port. Railroads and trucking companies would rather have port facilities closer to the final destination, which may be further inland. In an area such as southern California, however, where there is a large population base, this is not always true. In this area railroad companies and trucking lines are not as concerned about their transit times for taking the cargo to its final destination. On the east coast, ports such as Baltimore and Hampton Roads were hurt by their locations because of railway deregulation. Baltimore long touted its location as being closer to the Midwest by rail. Once rail rates were deregulated, Baltimore was unable to efficiently market its rail connections. However Hampton Roads, during this time of deregulation, modified its focus and took the stance of promoting almost exclusively its proximity to the open ocean.94

The proximity of ports to one another has also been behind the intention to regionalize. Many of the areas that have examined regionalization have used their
close proximity to each other as a consideration for merging. The Port of Duluth-
Superior comprises two different state ports that share the same harbor separated at
the widest point by 9 miles of water. The Delaware River separates ports in
Philadelphia and Camden, New Jersey, by less than 9 miles. In the northeast the
Hudson River separates New York and New Jersey. The terminals at Hampton Roads
all lie within 5 miles of each other on the same harbor at the mouths of the James and
Elizabeth Rivers. On San Francisco Bay, the merger effort between Oakland and San
Francisco failed in part due to the location of the Port of San Francisco despite being
only 3 miles from Oakland. San Francisco lies on a peninsula away from the mainland
of California. Carriers that dock in San Francisco would have to pay the extra costs to
truck cargo across the Bay Bridge into Oakland and beyond. Additionally, San
Francisco has little if any rail services within the city limits.

Part of the success associated with location deals with the area’s economic
viability. A port such as New York-New Jersey has the advantage of supporting a large
population base. The port can then use the region’s viability to attract more cargo away
from areas that may not be as attractive economically to shippers and carriers. The
high intermodal rail costs of shipping cargo between Baltimore and New York coupled
with the population base swayed Sealand-Maersk’s decision to build a new container
terminal at New York-New Jersey rather than Baltimore. There was a fear that if
Sealand-Maersk moved to Baltimore, those businesses dealing with the company would
turn to another carrier in order to save on the cost to truck cargo south.

The Texas coast stretches approximately 400 miles along the Gulf of Mexico
(GOM). Texas and other GOM ports believe that there is room for more than one
megaport in Texas, let alone on the GOM. The expansive coastline provides
numerous locations for ports. The east coast of the U.S. between Virginia and Florida
has on average one major container facility every 100 miles. By that notion, more
megaports could possibly exist along the remainder of the gulf coast, including New
Orleans. What may prevent this from happening is the lack of carriers needing to enter
the Gulf of Mexico. Consultants for the Port of New Orleans indicate a significant
increase in north-south trade between North America and Central and South America.
It is this container market that GOM ports may want to target. One example of this
connection thus far is the agreement established by the Ports of South Louisiana and
Altamira, Mexico. The two ports pledged technical assistance and economic
cooperation to develop trade ties and create better trade links between the two
countries. With the potential capacity for more than one megaport in the GOM,
regionalization may not be necessary.
**Port Size**

The size of the potentially regionalized ports represents a significant influence in the decision to merge. In the Gulf of Mexico, for example, Galveston may compete with Houston for certain commodities but a merger will eliminate that competition. Houston’s chief competitor outside Galveston Bay is New Orleans. The coordinated effort between Houston and Galveston will strengthen its position and create a larger port than New Orleans.

If the trend of carrier alliances is to continue, and with that bringing the idea that fewer container terminals will be needed, then port size becomes an important issue when expansion of facilities is considered. As the cargo volumes double and triple, ports respond by building new facilities. Sealand-Maersk plans to build two large container facilities, one at a regionalized port, New York-New Jersey, and another at a port that is not regionalized, Los Angeles. New York-New Jersey was chosen over Baltimore and Halifax, Nova Scotia, because of a better overall economic package. The state of New Jersey contributed an additional $121 million on top of New York’s offer. The additional money may not have been possible had New York-New Jersey not been a regionalized port. In addition to the better rail service than Baltimore and the cost associated with shipping to New England and New York, the added money helped sway the decision.98

**Dredging Revisited**

Dredging is a driving force for regionalization and proves to be a vital environmental concern as well. The contamination of marine sediment threatens ecosystems, marine resources, and human health. Managing the dredging and disposal of contaminated sediment becomes a complex and difficult task. Some of the factors related to this task include protecting human health, satisfying stakeholders’ interests and priorities, determining conflicting and overlapping federal, state, or local jurisdictions, and disposing of large quantities of contaminated sediment.99

One example of the potential environmental impact of dredging is found in San Francisco Bay. The Sacramento River provides much of the drinking water for this region. Additionally, the river acts as a navigation channel for the ports in Stockton and Sacramento. The river requires maintenance dredging that can potentially contaminate the river water. A regionalized effort would have provided additional funding to maintain
and deepen the current channel. The increased dredging as a result, however, may have led to contamination.

Another example of the impacts of dredging is the alleged contamination of the Laguna Madre while dredging the Gulf Intercoastal Waterway (GIWW). Past and continual maintenance dredging of the GIWW through the Laguna Madre has a deleterious effect on seagrass populations. The prevention of open water disposal may help this situation.

One way to dispose of dredge material is to create land with it. In fact, one common method of development is the creation of land from dredge spoils. An example of land development from dredge spoils is Pelican Island in Galveston, Texas, or the newly formed bird island in the Houston Ship Channel.

Delays due to environmental controversies over the risks and costs of sediment management are common. In New York-New Jersey, environmental opposition blocked dredging. There was concern for where contaminated sediment dredged from the channels would be deposited and for contamination on beaches. The contaminant, dioxin, prompted Clean Ocean Action to block further channel dredging. The public sided with the environmental concerns. The local environmental group, New York-New Jersey Baykeeper, challenged dredging reports stating that dredging incentives were based too heavily on economics and the viability of the region. The port, however, should find a way to balance the environmental impact and the disposal of dredged material with the economic viability.

Air Pollution

Air pollution is a critical factor affecting port development. When considering development, regions must determine if they are in an attainment area. An attainment area is one in which the level of air pollution has exceeded the Environmental Protection Agency's (EPA) acceptable level of standards; a non-attainment area is one that has not. If a port or a region is in a non-attainment area, that does not mean air pollution is neglected. Attainment areas, however, will receive heavier consideration of air quality. The proposed facility at Bayport on Galveston Bay in Houston is a good example. The Ned S. Holmes Bayport Terminal Complex may never be constructed because of the high levels of pollution that already exist in Houston. The facility would cover about 1,000 acres, adding 5,500 diesel trucks per day as well as eight 8,000-foot trains. Diesel fuel exhausts from trucks are substantially higher than gasoline. There exists three distinct air pollution problems associated with diesel exhaust: toxicity of diesel emissions, the contribution of small particle air pollution, and the combination of NOX
and volatile organic carbon leading to increased ozone levels. The increased air pollution from these problems could lead to environmental sanctions against the City of Houston. More than $200 million would be lost from transportation budgets if the city violates federal air pollution requirements.

The idea of increased air pollution as a result of more trucks from an expanded or regional port can be misleading. When the Port of New York-New Jersey wanted to expand its facilities, a study of the impact of trucks on the roads surrounding the port and the network on which the trucks travel was conducted. The study determined, based upon tonnage and the maximum load a container can hold, that trucks from port operations contributed 3-5 percent of the total trucks on the road.

In San Francisco Bay, the impact of more trucks moving across the Bay Bridge from San Francisco into Oakland and beyond would have increased air pollution had that region merged. Though economics prevented merging more than air pollution, the increased traffic and associated pollution were seriously considered.

Expansion of Facilities

Port expansion may adversely affect the environment. With one idea behind port regionalization to attract bigger carriers, the space needed to accommodate them needs to increase. Since ports normally deal with smaller ship operations, the day-to-day operations of a mega-terminal need to be addressed and changed as appropriate. Port expansion can also be responsible for an increase in market share especially if the expansion includes a new tenant. The advent of containerization was imperative to the unification decision in Virginia. The state needed increased port development to compete. The following are examples of the relation between regionalization and expansion.

- One reason behind the merger along the Delaware River was the ability to get more money from the Delaware River Port Authority for the purpose of expansion. The expansions, however, may be detrimental to the environment.
- At the Port of Duluth-Superior, the Duluth side of the harbor has a prohibitive amount of room for expansion. On the Superior side, there exists unused waterfront property including piers and docks. The Duluth port does not have legal authority to use the land in Superior. A merger would have allowed this.
In Virginia, rather than create new facilities, the merged port can look at the other terminals to determine if the needed facilities already exist. If so, the potential impact to the environment is reduced. Furthermore, the Port of Hampton Roads has taken a proactive approach and created a cooperative effort with the state Department of Transportation to mitigate against the loss of wetlands that may result from expansion of facilities.

When considering a megaport for the Galveston Bay area, some environmental groups are supporting the City of Texas City's site for several reasons. First, Texas City lies in a non-attainment area and can meet the EPA's air quality demands. Secondly, the proposed site, Shoal Point, is a dredge spoil and construction on it would not impact any current coastal ecosystems. Also, the site is located in an industrial complex and not a residential area. Finally, the proposed rail and road access corridor has been altered to prevent impact on Swan Lake and Virginia Point, both of which contain sensitive ecosystems.

**Societal Factors**

The societal factors include organizational form, property values, the loss of identity, and human nature and politics.

**Organizational Form**

Conventional wisdom states that location, technology, and economics govern the organizational form a port takes. The operational form a port takes also matters. For example, the capabilities of a port are enhanced when the governing structures allow it to be flexible and have internally controlled decision making. The control of decision making by an external entity as well as forcing short-term results often delays a port's capabilities. The two best examples of governing structures affecting port performance are the Port of San Francisco and the Port of Vancouver.

The Port of San Francisco was the first state-run public port in the U.S. During the first 50 years of its operation as a state agency, the port made a profit. Shortly after, the creation of ports as city departments in Oakland, Los Angeles, Long Beach, and San Diego coupled with the shift in political power and population to the southern half of the state resulted in a decline in profits for the Port of San Francisco. As a state agency, the port required legislative approval for revenue and operational needs. Politicians from southern California saw San Francisco as competition to the newly
formed ports and opposed using state funds to support San Francisco's port. Seen as an encumbrance to future port development as a state agency, California eventually relinquished control and the port became a municipal district.

In Vancouver, beginning in 1936, the Canadian Parliament, responding to the Minister of Transport, controlled operations at the port. The Prime Minister was responsible for appointing board members, approving by-laws that governed management and operations, approving expenditures for operations or construction, and marketing the port. Local ports, including Vancouver, criticized the governing structure for three reasons. First, the governing board in Ottawa was seen as being too distant, slow, and unresponsive to local needs. Second, the governing structure failed to properly market and develop the ports to their full potential. Third, the ports were operated too rigidly and could not respond adequately to the rapidly changing shipping industry. Not until 1983 did Canada reform port governance and allow ports such as Vancouver to operate autonomously in its decision making. The port achieved financial self-sufficiency and now aggressively pursues maritime business independently of the federal government.

The situations in San Francisco and Vancouver show that government structures and organizational form affect the performance of ports. Like these two cases, organizational forms affect regionalized ports or those attempting to regionalize.

One way that regionalization affects the organizational form can be seen in its effect on cross-state mergers. Cross-state mergers appear more difficult to handle than mergers within a state. With the economies of each state depending on commerce, cooperation is a must. Opinions of what the port authority means to each side differ, thus creating strain. For example, New York believes New Jersey is self-sustaining with most of the maritime revenue going to that state. New Jersey, on the other hand, feels the authority between the two states creates an "economic engine" that generates jobs and revenue for both states.111 The struggle between the two state governments continues today, and business is being lost at the port. For example, the Howland Hook Container Terminal in New York requires improvements to relieve congestion. Until the two sides solve their problems, projects such as the Howland Hook expansion as well as the creation of Sealand-Maersk's new container terminal will be put on hold.

A second example of how organizational form can affect regionalization occurred in San Francisco Bay. One of the drawbacks to the effort on San Francisco Bay in the mid 1990s involved how to combine the different organizational forms of the four ports. San Francisco and Oakland are owned by their cities and respond to the mayors. Sacramento and Stockton are independent port districts controlled by directors that
cover multiple counties and city governments. When the cities do not control the ports, as in Sacramento and Stockton, it makes merging more difficult.\textsuperscript{112}

Another example of the impact of organizational form affecting ports considering regionalization is occurring along the Delaware River. The merger on the Delaware River created the Port of Philadelphia and Camden, New Jersey, which operates under the Delaware River Port Authority. It is not the specific organizational form, however, that makes this location unique. What benefits PPC is the existence of an already established bi-state agency: the Port of New York-New Jersey. PPC was, and still is, able to use this current structure to create another bi-state agency of which one of the states, New Jersey, operates at both. PPC attempted to model its effort after New York-New Jersey.\textsuperscript{113} With one state already involved in a bi-state initiative, it was easier to involve that state in another.

The best example of the importance of organizational form to regionalization resides with the Port of Hampton Roads. Virginia, prior to unification, had three separate terminals: Norfolk, Portsmouth, and Newport News. Norfolk was operated with the city as a public corporation. Portsmouth was leased to a private terminal operator, and Newport News was owned and operated by the former C&O Railroad, now CSX. Prior to unification, large private interests did not dominate terminal operations. None of the businesses, including Norfolk International Terminal (NIT), which was the largest of the three, were entrenched or strongly established in the region. There were no private interests operating at the terminals, and chances of opposition did not exist. This situation made changing the Virginia Code easy to allow for acquisition of the individual terminals by the Virginia Port Authority.

At the Port of Hampton Roads a continual factor that influences the success and daily operations of the port is its process of selecting port directors. The VPA appoints commissioners to five-year terms with a possible one-term renewal. Virginia law allows a governor to serve one four-year term. Any change in party from one year to another at the state capital will not result in the replacement of a commissioner. The staggering of port commissioner appointments and governor elections allows for consistency in the operations of the port.\textsuperscript{114}

\textit{Property Values}

In conjunction with the land access and development issue mentioned previously, the value of property comes into stake. The Port of Duluth-Superior provides a good example.\textsuperscript{115} The port lies in a heavy industrial area away from residential communities. The port's operations, however, lie near recreational or
commercial property associated with the city. Included in the property is land available for expansion. One site, a cement factory catering partly to ships, has been viewed as an eyesore and has faced considerable opposition. The available land for port expansion is owned by the city, and the community wishes to use the land for recreational purposes. With the expanding commerce industry, the port is looking at the property for expansion. A merger with the Superior Harbor Commission, a previously initiated but failed effort, would have allowed access instead to undeveloped waterside property in Superior on which the port could have expanded.

The Loss of Identity

The loss of identity may refer to several perceptions. First, it may be the idea that the removal of a long-standing institution such as a port would adversely affect the attitudes and perceptions of local citizens. If, for example, the citizens who were responsible for building the port were then to see it bought out or merged, they may not be able to relate to the port in the same way. Hence, their attitudes and perceptions may change. The loss of identity factor was evident in Superior, Wisconsin; Tacoma, Washington; and Portsmouth, Virginia.

The small city of Superior felt their civic pride would be tarnished if the Duluth Seaway Port Authority merged with the Superior Harbor Commission in the 1970s. In Tacoma, a sizable port on par with Seattle, felt the same notion. Intercity rivalries date back to the 1800s. There was no interest by the port community of Tacoma to relinquish control of the container facilities. The Port of Hampton Roads faced a similar situation. Of the three ports that originally unified in Virginia, only Portsmouth showed any sense of a loss of identity. The city worried about how Norfolk may affect Portsmouth since Portsmouth was relatively new and achieving success.

Human Nature and Politics

Politics appears to be a fundamental influence when considering whether regionalization will or will not succeed. It is apparent that differing opinions on how a proposed merged port will operate often hamper progress. A number of examples point to how politics and human nature affect regionalization efforts and port operations.
• Bill Mathis, president of the privately owned Port of Texas City, discusses the influence of political clout.\textsuperscript{117} When port officials know more players in the political arena (i.e., the state or federal legislature) it may allow for easier negotiations with issues such as funding for dredging.

• The initial discussions for regionalization on Galveston Bay included Houston, Galveston, and the City of Texas City. Personal differences between Houston and Texas City caused Texas City to remove itself from further port merger talks.

• The issue of pride revolved around the lack of any merger between Seattle and Tacoma, Washington. The port in Tacoma did not want to relinquish control over its container terminal and the U.S. cargo it imports and exports.\textsuperscript{118}

• Although politics did not eventually decide the fate of the merger effort on San Francisco Bay, the intention behind the effort was purely political. Mayor Willie Brown wished to head up the Golden Gate Port Authority, the designated port entity had the merger occurred, after his tenure as mayor.\textsuperscript{119} On the San Francisco Bay, however, political infighting, a situation that may pamper regionalization progress, did not exist.

• Despite its success as a regional, bi-state port, both New York and New Jersey continually feud over spending. Governor Pataki of New York feels more funds should be spent in his state.\textsuperscript{120} These differences are hurting current businesses, such as the Howland Hook Container Terminal, as well as hurting future businesses such as the new Sealand-Maersk container terminal.

• Despite the success of the merger, the terminal at Newport News, Virginia, and the Virginia Port Authority have had different views about the port. The VPA feels that the terminal is in an economic boom. Newport News, on the other hand, feels that is only talk, and the boom is a misrepresentation. "For years, the staff of the VPA has given Newport News lip service and little else," said Newport News city councilman Joseph Ritchie.\textsuperscript{121}

• Governance has continually hampered the effort along the Delaware River between Pennsylvania and New Jersey. Each state government is unsure as to whether they want the merger to go through. A lot of work has been done to get the merger to the point it currently resides. Executive director and chief executive of the South Jersey Port Corporation stated: "We're too far down the road. You couldn't even think of it not happening."\textsuperscript{122}
CHAPTER 3: SUGGESTIONS FOR PORT REGIONALIZATION

The future of regionalization in any area requires careful consideration of the issues. Port directors across the country provided the following advice and suggestions.

Equality for all parties is the foremost suggestion. A number of questions need answering.

- Do all sides have equal benefits and have an equal footing in decisions?
  The answer to this question may be in the form of equal representation on a port commission or authority board.

- Are there similar operations for the ports in question?
  Any duplication of effort will need to be determined. Duplication may be necessary, as it is at Hampton Roads where each of the three terminals can accommodate any type of cargo. Similarly, if one terminal can accommodate, for example, containers better than another, then container cargo efforts could be focused at that terminal and efforts at other terminals could be redirected.

- Will the ports be equal in job creation?
  The equality of labor may not necessarily be possible. Large and small ports have proportionately different amounts of workers. What is important is that the proportion of the larger port to the smaller port workers remains unchanged or is not changed in favor of the larger port.

- Will there be an equal assessment of value?
  Along the line of equating the number of jobs, a smaller port may not necessarily be able to bring in the same value of cargo because it cannot handle the volume. What needs to be addressed is that the value of cargo is fairly distributed among the ports based, in part, on the volume the port can handle.

- Most importantly, does the region have the political wherewithal to complete the merger?
  Without cooperation and understanding between all parties, any merger effort will get bogged down in bureaucracy, politics, and differences of opinion.

The reduction of governance issues such as politics, financial spending, the acquisition of property, or the loss of identity, is a key component of any decision to regionalize. Presumably, an intrastate merger is less difficult to accomplish than an interstate merger. The ability for two states to merge has hampered the Port of Philadelphia and Camden. The bi-state agency of New York-New Jersey continually
argues about the appropriate distribution of funds between the two states. At Duluth-Superior, the creation of a bi-state agency threatened the loss of identity of the city of Superior, Wisconsin.

Former Director of Port Operations at the Port of New York-New Jersey, Steve Cernack, echoes the sentiment about cooperation. He emphasizes teamwork between the entities involved. The idea of cooperation was used to persuade the governors of New York and New Jersey to support a constructive port program in 1921.\textsuperscript{123} Parties interested in merging must know ahead of time that cooperation and teamwork are critical components of any merger. Though simple to consider, cooperation and teamwork may be difficult to manage. There also needs to be a separation of the port’s or port authorities’ operation from the politics.\textsuperscript{124} A successful system of checks and balances between authorities and the local or state government will be helpful in establishing the benefits each entity wants to achieve.\textsuperscript{125}

Public agencies such as port authorities in the commerce industry must pay attention to the private sector and keep them informed about operations around the port. Davis Helberg, executive director at the Port of Duluth-Superior, offers two things that should be done if a bi-state agency were created in his region: the first and the last. The first involves a series of meetings with private landowners on the waterfront to include terminal operators as well as affected shippers and carriers. The meeting would determine if those private operators were in agreement with the port’s intentions. The last activity involves surveying the land for expansion only after reaching agreement and creating cooperation with those people potentially affected. The private sector needs to be involved and supportive of the port’s activities. Otherwise, any regionalized effort becomes a monumental task.

In Philadelphia and Camden, the DRPA addressed private interests when the discussions of the merger began. One potential problem arose during the discussions. Holt System’s Inc., both a private operator and operator of the largest public terminal, filed suit against the Delaware River Port Authority, the Philadelphia Regional Port Authority, and the South Jersey Port Corporation claiming the effort to regionalize was driving the company out of business.\textsuperscript{126} The lawsuit was viewed as complicating the plans of the unification between the ports. When Holt lost the appeal, it appeared that the path to unification was once again clear.\textsuperscript{127} Elizabeth Murphy, chief executive at the DRPA, states that the lawsuit had no impact on the current status of the port unification project. The important point, she notes, is that “the private terminal operators should be included throughout the process of creating a bi-state/regional agency.”\textsuperscript{128}

“The whole is better than the sum of its parts” best fits Robert Bray’s, executive director of the Virginia Port Authority, description of why regionalized ports should work.
It is hard to target a market, be it containers or otherwise, adequately as separate port entities. A unified effort to market a regional port is more likely to produce greater gains than possible if each port were to attempt it alone.

It is apparent that regionalization is site specific. It works in some areas (New York-New Jersey and Virginia), does not in others (Duluth-Superior, San Francisco Bay, and Philadelphia-New Jersey), and is not needed elsewhere (Los Angeles and Long Beach). However, factors exist that are universal to all regions, such as saving money. Regionalized ports can save money for port authorities. The majority of officials and analysts will agree that saving money is a foremost benefit for merging and should be a factor closely examined. Akin to saving money as a universal factor for all regions is the ability to focus competition in the proper direction. Any kind of competition existing between ports is not in the region’s best interest if the ports remain separate. The region should not focus its competitive effort with closer regional ports, but redirect it on a larger regional level such as Virginia did.

Another universal factor affecting all ports is politics. Politics cannot be avoided yet it takes different forms in different regions. Robert Bray, executive director of the Virginia Port Authority, offers suggestions on how to best address the issue of politics and how politicians can favor regionalization. Strong business leadership and open communication between port officials and local politicians can help alleviate some of these problems. For the politician, a regional effort can alleviate the inundation of complaints and requests by different factions such as those complaints coming from port directors. Rather than have two or three port officials contacting a politician with problems, the creation of a single entity can streamline the political process, albeit the number of issues may still be the same.
CHAPTER 4: THE HOUSTON-GALVESTON MERGER

Senate Bill 1665 (SB 1665), authored by Representative Jon Lindsay, authorized the first step toward attempting port regionalization on Galveston Bay. This section explores further the regionalization effort SB 1665 put forth.

The Port of Houston stretches 25 miles along Galveston Bay and the Houston Ship Channel comprising diversified public and private facilities. The Port of Houston ranks eighth in the world and first in the U.S. in foreign waterborne commerce, second in total tonnage\textsuperscript{131}, and fourth in dollar value of foreign trade.\textsuperscript{132} The Port of Galveston, located on the north side of Galveston Island, provides a beneficial complement to the Port of Houston. Commissioner Ned Holmes from the Port of Houston feels that "[a] regional port will be a more efficient and powerful economic force for the taxpayers of both counties and cities."\textsuperscript{133} The Port of Galveston favors the merger as well but until both sides of the issue agree, neither will push the other and the legislation, though approved, will remain stagnant.\textsuperscript{134}

While Galveston provides excess capacity, the Port of Houston provides financial resources and marketing expertise.\textsuperscript{135} Houston and Galveston currently do business together making the location an ideal merger opportunity. When Houston's Barbour's Cut facility reached capacity, the leasing of Galveston's facility brought a profit to the Port of Galveston.\textsuperscript{136} The Port of Houston moved roughly 6,000 TEUs to the docks at Galveston. The move by its traditional rival at Houston helped Galveston become more agreeable to the idea of a merger. In the early 1990s the idea was not as favorably received. Initially, Houston saw using the docks at Galveston as an acquisition and Galveston saw it as a merger.\textsuperscript{137}

The situation on Galveston Bay is not different from other areas of the country that have attempted regionalization. The merger involves a larger port Houston with a smaller port Galveston. Houston retains more power and clout, and has a significantly larger operating budget. Galveston has less land and is located in a smaller city though not far removed from a major metropolitan area. These conditions are not significantly different from those in San Francisco Bay, Duluth-Superior, and Virginia prior to their merger.

What makes the Galveston Bay situation different is the incorporation of a third entity previously not represented in the port industry: the City of Texas City. The Port of Texas City, a privately own terminal, does not factor into the merger plans. Its presence on the Bay does factor into the merger considerations. For example, the Port of Texas City does not wish to have its local docks and harbors dredged further due to possible
disruption of service to its current clients. Additionally, the development of a new port facility in the City of Texas City may affect the Port of Texas City's turning basin.

A number of factors and issues concerning port regionalization apply to the Galveston Bay area and appear summarized below.

Jobs

For more than 10 years, union leaders have supported regionalization on Galveston Bay. They believe the merger will create more jobs for longshoremen. Labor officials also believe the merger allows the region to develop and become a major load center, increasing the market share, especially of the Latin American container market. Part of becoming a load center is building a state of the art container facility. During its advertising campaign to support passage of revenue bonds to finance the Ned S. Holmes Bayport Terminal, the Port of Houston emphasized the addition of over 28,000 new jobs by the end of the first phase. Construction phases will add approximately 24,000 jobs. The Port of Houston also emphasizes the duplication of effort as a reason behind merging with Galveston and Texas City.

Economic impact

The merger on Galveston Bay has many positive economic benefits, especially for Galveston. The merger would allow for additional marketing resources and international recognition. The larger Port of Houston provides Galveston the needed infrastructure improvements, the support of a more powerful port, and the ability to raise tax money through revenue bonds. The merger may allow for additional access to land.

In contrast to the economic gain, the merger may create a loss of autonomy for Galveston, a loss of identity, and the loss of jobs. Galveston also fears that the pool of revenue created by the merger, a pool that Galveston would have equal share in, would be disproportionately spent. The Port of Galveston is worried that it will not get the money it needs. In terms of infrastructure, the Port of Houston repaired a number of cranes on the Galveston docks. If the merger does not occur, the Port of Galveston would lose control of the cranes at the end of the current lease with Houston.

The biggest economic impact for the region will come from the addition of the Ned S. Holmes Bayport Container Terminal. In 1998, the Port of Houston moved nearly 1 million TEUs. The addition of the Bayport terminal means about 2 million TEUs by the time of its completion. In 1997, the Port of Houston brought in $7.7 billion in revenue,
up $2.2 billion from 1994. The addition of Bayport will add to that amount. The completion of the first phase will generate an estimated $633 million for the region.

There is also a concern about taxes. The merging of the two ports across county lines means the region must determine how to spend and raise taxes. The Port of Houston proposal addressed the issue in the following ways:

- Any acquisition of either Galveston or Texas City facilities would not increase the Port of Houston Authority’s tax jurisdiction beyond Harris County.
- Any proceeds from previous bonds could only be spent in Harris County.
- Any bond authorization created in Galveston County can only be spent within and repaid by that county.

**Competition**

Competition is extremely important on Galveston Bay. Despite the size difference in the ports, Houston sees Galveston as a competitor. Even though the city of Texas City is not currently in the port business, the potential development of a container facility, Shoal Point, is also viewed as competition. The development of either Bayport or Shoal Point would intensify competition with other Gulf of Mexico ports, particularly New Orleans and Corpus Christi, for Latin American cargo. Corpus Christi, however, could not compete adequately for the cargo that goes to Houston. Rather, Corpus Christi competes with Houston in the fruit market due to its proximity to the citrus-producing Rio Grande Valley and Mexico. The Texas gulf coast ports need to determine how not to compete with one another but instead to coordinate and compete against other regions.

**Carrier Alliances**

The trend in carrier alliances typically favors major load center ports. This was especially evident at the port of New York-New Jersey when Sealand-Maersk selected that port as its east coast hub. Although, megaships are not likely to call on the gulf coast in the near future, their presence and changes in world trade may have an influence on shipping patterns in the gulf region. The merger on Galveston Bay appears as an ideal compliment to carrier alliances.
Dredging – Economic and Environmental Concerns

Ports on Galveston Bay are concerned about dredging. It is not the cost, however, that concerns the Port of Houston, it is the depth to which the Houston Ship Channel is being dredged. With carriers ordering 6,000 TEUs ships and larger, the 45 feet the channel is being dredged to is not enough. To compete in the market, the region may have to attract megaships. The influx of these ships is important to the carriers for one reason: economies of scale. It is cheaper to bring in one ship with twice the load rather than two ships. Without the deep channels, the carrier will turn elsewhere. The lack of sufficient cargo as a result of a shallower channel hurts the entire region.

Port Freeport and Texas City, discussed below, have authorization to dredge to 50 feet. At Freeport, dredging will occur only if local businesses request it. If someone else pays for it, then the companies will probably approve. If the companies have to foot part of the bill, they will have to weigh the cost of dredging against the assets generated as a result of the dredge. In Houston, dredging the channel to deeper and wider depths is needed to remain competitive, even at 45 feet.

Dredging has allegedly affected marine habitats through destruction and increased salinity along the ship channel. Beyond the potential threat to habitats is where the dredged material should be placed, providing that it is not contaminated. If the material is clean, the most immediate use is the creation of land. The expansion project by the Port of Houston will create a number of environmentally beneficial sites during the 50-year project duration. The intentions of the project include the restoration of resources caused by the conversion of wetlands into shallow-water habitats through erosion, subsidence, and other man-made impacts. The program includes the Army Corp of Engineers, Fish and Wildlife Service, the Environmental Protection Agency, Soil Conservation Service, Texas Parks and Wildlife, National Marine Fisheries Service, Texas General Land Office, and the Port of Houston. The sites include intertidal marshes, oyster reefs, and a bird island sanctuary. To better assess the effectiveness of the project, the port created a viable tidal wetland using dredged material called the Bayport Demonstration Marsh. Two years after its completion, the marsh has shown remarkable success. The project has gone a long way in determining how to dispose of valuable dredge material in an environmentally sound manner.
Intermodal Connections

If Houston and Galveston want to become megaports, then the way the ports operate will have to be changed and improved. Operations at a megaport differ because cargo is often dispersed to a number of different places and via different avenues. Currently cargo comes in and is mainly dispersed in Houston with smaller shipments going to the midwest and other Texas cities either by truck (mainly) or as parts of a train rather than a complete unit train (cargo all going to one destination). With a megaport that extracts cargo from all over the world, there may be enough cargo to send an entire unit train to a midwest city such as Chicago. Thus, transfer from a ship to train must be more efficient and may require on-dock support.  

Only large ports can support the change to a megaport. For smaller ports such as Freeport, Galveston, or Texas City, growth is not possible. The expense to gradually expand to a megaport, which requires significant improvements and adjustments to intermodal transportation, cannot be outweighed by the gradual influx of cargo.

Revenue Bonds

Revenue bonds are important to the Galveston Bay region. The Port of Houston has the ability to raise money through the taxpayers; Galveston does not. The Port of Houston used the ability to raise taxes to approve the initial funding for the Bayport container terminal. Port Freeport has the same ability but cannot draw the same amount of funds because its population base is significantly smaller. The merger of Houston and Galveston would first require changes in state legislature to allow the spending and raising of tax dollars across county lines. The Port of Galveston would benefit from the ability to raise tax dollars especially if large portions of the taxes come from Harris County.

Location and Port Size

Other regions around the country have used their proximity to other ports as a reason to merge. The port facilities of Houston and Galveston are roughly 28 miles apart from Barbour's Cut at Morgan Point to the East End Container Terminal on Galveston Island. This is a significant distance compared to Virginia, Philadelphia-Camden, and Duluth-Superior. The communities they service, however, lie in adjacent counties and effectively are neighbors. In that sense, the ports' proximity should serve them well.
The Port of Houston's centrally located position on the Gulf of Mexico makes it a strategic gateway to the distribution of commerce to the western and mid-western United States. Galveston provides the same strategic location on the Gulf of Mexico yet is closer to the open sea. The 9.3-mile trip from Galveston takes significantly less time than maneuvering up the Houston Ship Channel. Both ports are ideally situated along the Gulf Intercoastal Waterway. Along the Gulf of Mexico coast, the next major terminal providing significant competition is Corpus Christi at approximately 185 miles from Galveston. New Orleans is over 250 miles away from Galveston. If the geographic location of Galveston Bay as a regional port in comparison to adjacent ports is considered, the Gulf of Mexico Coast is similar to the mid-eastern to southeastern coast of the U.S. Along the east coast, successful ports, in terms of tonnage and cargo, lie approximately 100 miles from each without affecting their operations and retaining healthy competition. Based upon 1997 data, Charleston, South Carolina, Virginia, Savannah, Georgia, and Jacksonville, Florida are in the top 16 in terms of number of TEUs handled. All the ports showed an increase in the number of TEUs handled from 1996 figures. The same four ports are also in the top 18 ports in the U.S. in terms of the number of cargo vessel calls.

The size of the ports remains an important consideration in the Galveston Bay region. Houston, dominating the country in foreign tonnage and vessels calls, dwarfs the Port of Galveston. Houston has a larger operating budget, larger facilities, more land, and more funds to use for infrastructure improvements. The port also has the added benefit of taxing authority. Galveston has an operating budget, facilities, and land but does not have the funds nor can they tax the community. As of 1997, Galveston ranks 34th in the nation in total TEUs. Galveston is not ranked as one of the top 25 ports in the nation in terms of cargo vessel calls. The top 25 ports account for 72 percent of the nation's cargo movement. The port is 56th on the list of total tonnage compared to Houston listed second. Galveston does not rank as one of the top five Gulf Coast ports in terms of container growth between 1985 and 1996. Houston is the number one port in this ranking. Galveston, as a small port, has much to gain from a merger with Houston. The port could use the revenue gained from the merger for infrastructure improvement and to assist in future development. Galveston can also use Houston's name in the industry as a marketing tool.

Houston's largest advantage to a merger with Galveston is the acquisition of land. Barbour's Cut container terminal is filled to capacity. To maintain its edge in the container market, Houston had to find a place for additional containers. Facilities at the East End Container Terminal at the Port of Galveston lay open and unused. Houston approached Galveston with a deal to lease the dock space for 20 years. In
return, Galveston received the additional revenue from the containers and funds to repair to a number of cranes along the terminal.

Expansion of Facilities

No region thus far has felt more the affect of the expansion of facilities and its relationship to regionalization than Galveston Bay. The reason for the significant impact is the Ned S. Holmes Bayport Terminal. This section will discuss Bayport exclusively as it relates to regionalization. Bayport exists as an alternative to Texas City’s Shoal Point terminal as the megaport container facility on Galveston Bay. Texas City wanted at one point to join forces with Houston in hopes of developing Shoal Point.

The $1.2 billion Bayport terminal will be funded exclusively from port bonds, or revenue bonds. The terminal will be built in phases to take advantage of the market and take an estimated 20 years to complete. Initial port bonds of $387 million have been approved. Houston has the advantage of tapping revenue bonds for funding. Other regions looking to build container terminals similar in breadth and scope are seeking private funding. Houston has a large metropolitan base from which it can draw tax money. Regions like Texas City and Corpus Christi do not have the population base to draw enough money to build a terminal the size of Bayport. Port bonds provide a more immediate source of funding. The search for private investors, especially on the Gulf of Mexico coast, is difficult. Hence, the most logical solution is bonds.

The location of the Bayport terminal is near residential neighborhoods but would be a part of an existing petrochemical complex. Despite the proximity to heavy industry, residents strongly oppose the building of the terminal for fear that the facility will drive down real estate prices. Environmental groups, in addition, oppose the expansion because of the potential for increased air pollution and traffic congestion. Litigation is threatened if the environmental impact statement determines that the facility, and operations associated with it, cannot meet the EPA’s air quality regulations. Houston and Harris County already lie within a non-attainment area.

Opposition to the terminal is a concern to the Port of Houston. The port wishes to build the most environmentally sound terminal possible. The economic impact of the terminal, however, is what Houston wishes to emphasize. The facility, through its first phase, will generate 28,580 jobs and create 24,327 jobs associated with the construction of the terminal. Personal income from directed and related jobs will increase from $163.3 million to $5.8 billion. Along with the boost in personal income, the terminal will put an additional $17.8 million in state and local taxes into the region.165
In the end, Port of Houston officials feel Bayport is needed, for not only the port, but for the region to retain its status quo and grow. Currently Barbour’s Cut handles 80 percent of container traffic moving through Texas ports. That movement accounts for 65 percent of the Gulf of Mexico’s traffic. With Barbour’s Cut filled and without expansion, the region may lose vital business to other Gulf competitors.\textsuperscript{166}

Organizational Form

The change in organizational form is inherent when it comes to regionalization. The biggest factor for the Galveston Bay region is the ability to operate across county lines. Jurisdictional location, that is, the location of the authority, tends to influence port pricing especially for ports operating on the same body of water.\textsuperscript{167} This is evident on Galveston Bay between Galveston and Houston, and on the Gulf of Mexico between Houston and New Orleans. The current competition between these regions puts additional pressure on the ports to under price facilities and services. A regional port covering a larger jurisdiction may more effectively handle these pressures.

The Port of Galveston points to the legal difficulties associated with merging two different organizational forms.\textsuperscript{168} The port exists as a public utility of the city of Galveston. The Port of Houston is a navigational district. The city charter of Galveston would need to be changed since the city is relinquishing its authority over the port. One further facet of the reclassification of the two ports resolves around leases. Some of the questions include:

- How are Galveston’s leases patterned after those of Houston?
- Do both locations’ leases need to be “grand-fathered” in and then started anew with another lease format for the merger or do any conversions need to take place?
- How will the different legal conditions or term limits of leases be defined?

Carriers may also see a benefit from the modification of organizational form on Galveston Bay. When a carrier enters the Bay and docks at a port, it must pay costs to dock and undock, also known as, full-in, full-out. If a carrier proceeds to another location on the Bay, the same costs will be incurred. The modification to a regional form eliminates the repeated full-in, full-out charge. With a regional port system, a carrier pays full-in, full-out once, and can proceed to any port or dock operating under the same organization.\textsuperscript{169}
Society's Concern for Property Values

The biggest concern for the value of property exists where industry impedes on residential districts. On Galveston Bay, the continued success of the Port of Houston, with or without regionalization, is the development of Bayport. Residents in Seabrook, El Jardin, Shoreacres, El Lago, and Taylor Lake Village are concerned for the value of their homes as a direct result of the development of Bayport. The core impact area comprises these neighborhoods directly affected by heavy industry with the potential impacts of declining property values, environmental nuisances, and shipping traffic.\textsuperscript{170} The residents have joined forces to establish a grass roots opposition to the development.

Property costs can range from loss of $44,000 to over a million dollars depending on the neighborhood. The residents feel the increased heavy industry and the added number of trucks on the road will drive down property values.\textsuperscript{171} Local realtors feel that up to 2,500 homes within close proximity to the facility will see not only diminished property value but also the potential for no value at all.\textsuperscript{172} Port officials feel the region already has heavy industry in the form of petrochemical plants and future development is eminent. The port feels the property is just as valuable to them as the residents feel their property is to them.\textsuperscript{173} These residents feel that Shoal Point is the better location for a container terminal not only for property value reasons but for environmental concerns as well.

Politics

From the complex legislation needed to change taxing authority to the simple negotiations of lease space, politics is prevalent on Galveston Bay. Texas City, an original member in the merger considerations, dropped out of the discussions over a difference of opinion on the development of Shoal Point. The City of Texas City felt the release of its property to Houston would not result in immediate development. Instead, the property may be developed some 20 to 25 years down the line.\textsuperscript{174} Texas City also had an idea to develop a joint marketing plan between Texas City and Houston. The Port of Houston declined the venture stating it would be like doing Texas City's marketing for them.\textsuperscript{175} Before becoming mayor of Galveston, Chuck Doyle envisioned a regional port system involving all three ports on Galveston Bay. The Port of Houston’s idea for regionalization, however, differed from that of Galveston and Texas City and talks stalled.\textsuperscript{176} Since the times of the original talks, a joint venture between Houston
and Galveston has come along way. In June of 2000 the Galveston City Council voted to recommend the two ports merge. The next step is for the merger to be voted on by the public.\textsuperscript{177}

Another issue was the idea to study regionalization before a merger went through. When Representative Craig Eiland proposed a state subcommittee to examine regionalization on the Bay, the Port of Houston balked. The creation of the committee to study regionalization would have taken approximately two years to research and develop; two years the Port of Houston would have had to wait to proceed with the development of Bayport.\textsuperscript{178} An additional fear for Houston was the potential that the committee would recommend against Bayport. Not only did the Port of Houston oppose the committee, trustees from Galveston failed to support the bill as well.\textsuperscript{179}

Outsiders point to political clout as an important factor.\textsuperscript{180} When it comes to requesting funds for dredging, those with better connections in Washington tend to have a better chance. The Port of Houston has continually exhibited its power. During the negotiations for the lease for the East End Container Terminal at Galveston, the Port of Galveston held little resistance to the Port of Houston’s proposal.\textsuperscript{181} The Port of Galveston needed the money and the infrastructure improvements. Other officials state that, despite the potential serious environmental impact associated with Bayport, the facility will be built because Houston is just too big and powerful.\textsuperscript{182}

\textit{Where is Texas City?}

Texas City has a plan. The plan may or may not include Houston or Galveston. At one point, the City of Texas City supported the idea of merging with Houston in order to facilitate competition in the region rather than destroy it. The facility to be built at Shoal Point was originally part of the regional agency proposed by the Port of Houston Authority.\textsuperscript{183} According to a consultation report done for the city’s port facility, Shoal Point, the addition of Texas City into Houston and Galveston’s plan would create a powerful regional port complex rivaling that seen in Los Angeles and Long Beach.\textsuperscript{184} Despite the excellent rail and road access in combination with the permit to dredge to 50 feet, the politics of the situation halted discussions with and interest by the Port of Houston. Nearly 14 months after Texas City was seen as an agent in the development of Senate Bill 1665, the city decided to pursue port development plans alone.\textsuperscript{185} Texas City sees the ability to dredge to 50 feet a key selling point as well as its prime location and proximity to the open sea. On the Gulf of Mexico, only New Orleans has permission to dredge to 50 feet. New Orleans’ location, however, is more prohibitive than its depth is advantageous for attracting the ships that need a 50-foot channel.\textsuperscript{186}
Texas City wants the region to know that Shoal Point is ideal for the development of a container facility. Texas City hopes that a container facility will act as an economic engine bringing in jobs and industry. An environmental impact statement, initiated to study the impact of the Bayport, must automatically consider alternative sites; one Texas City hopes can be Shoal Point. Texas City has the backing of local residents as well as residents in Harris County. Environmental groups have shown no opposition to Shoal Point. The Galveston Bay Conservation and Preservation Association (GBCPA) supports regionalization and feels Shoal Point is an ideal place to put a container port. One reason the GBCPA supports Texas City is the proximity the future 50-foot channel would be to the open ocean. The closer a deep channel is to the open ocean, the less salt water will enter the Bay. Another environmental issue benefiting Texas City is air pollution. A megaport is better situated in a non-attainment county or city, such as Galveston or Texas City. The effect of heavy industry may not be felt as severely in an attainment area. Conversely, a non-attainment area may see the harmful effects of pollution as a result of the increased heavy industry and perhaps push it outside of the attainment levels set by the EPA.

The Shoal Point site would also be in an established heavy petrochemical region away from residential districts. In addition to the potential for a deep-water channel and the direct access to the open sea, Texas City will also provide direct on-dock rail service and direct access to the highway without adjacent competition. The presence of Texas City and Shoal Point is a serious factor affecting regionalization on Galveston Bay.
CHAPTER 5: PORT COMPACTS AND DIRECTIVES

This chapter summarizes four legislative compacts created by state governments for the purpose of port regionalization and then compares them to the Texas Senate Bill 1665 created for the Galveston Bay, Texas, region. The four compacts comprise two that have been enacted as law and two that have not. The approved compacts include the Port of New York-New Jersey and the Port of Hampton Roads, Virginia. The unapproved compacts include the Port of Duluth-Superior and the Port of Philadelphia and Camden. The compact for PPC is currently unapproved but has not been dismissed by the regional governments. Discussions regarding the merger continue. The Duluth-Superior compact was initiated in 1976 but was passed by neither of the state governments in Minnesota and Wisconsin. The issue of regionalization is not currently being discussed at the Port of Duluth-Superior. Copies of the compacts appear in the appendix.

Port of Hampton Roads, Virginia

The amendments and additions to the Code of Virginia allowed for the creation of the Virginia Port Authority - Senate Bill 548. The Code allowed the VPA to acquire land that was not specifically mentioned. The VPA created the Virginia International Terminal (VIT) to act as a corporate entity that would control Norfolk International Terminal, Newport News Marine Terminal, Portsmouth Marine Terminal, and Virginia Inland Port (the inland port at Front Royal was created in 1989 subsequent to the unification of the terminals). VIT reports to the VPA, which in turn reports to the Virginia Secretary of Transportation. Amendments and additions to the Code of Virginia include, but are not limited to:

- The creation and appointment of a board of commissioners responsible to the governor.
- Setting of term limits for all commissioners to include no more than two consecutive five-year terms.
- Selection of and appointment by the governor a non-board member Executive Director.
- The establishment of its legal status.
- Requirements of the VPA to stimulate commerce on behalf of the Commonwealth of Virginia.
- Permission to consolidate water terminal operations of the Commonwealth.
• Authorization to acquire property and equipment for the purpose of aiding commerce.
• Authorization to dredge channels and the construction of shipping and transportation facilities.
• Permission to lease any or all parts of its property.
• Not allowing the VPA to incur indebtedness or expending of funds for any improvement, repair, or maintenance of property.
• The power of eminent domain to acquire property potentially needed for the continued operation and improvement to facilities for the purpose of port commerce.
• The ability to issue revenue bonds to pay for all or part of any VPA project for the acquisition, construction, repair, or control of port facilities.

Port of New York-New Jersey

The compact between the state of New York and New Jersey appeared in 1921. The original agreement between the states dates back to 1834. The compact formed the Port of New York Authority and details the geographic boundaries. Specific articles detail the following information:

• Number of board members. At the time, the compact allowed three members per state. Today each state is allowed six members.
• The power of the authority and the services it provides. Powers include the ability to purchase, construct, lease, and/or operate any terminal facility within the district, and to make charges thereof.
• Funding requests. The ability to request funding from federal sources for the purpose of development or improvement of facilities.
• Salaries. States the salaries paid to officials to come from state legislatures until funds from revenue become sufficient enough for the authority to pay salaries.
• Decision-making. Lists the constraints of decision-making mainly dependent on a sufficient number of members present at committee meetings.
Ports of Philadelphia and Camden

The purpose of the agreement was to form the Ports of Philadelphia and Camden, Inc., a non-profit corporate entity that combines the Delaware River Port Authority (DRPA), the Philadelphia Regional Port Authority and the South Jersey Port Corporation. The entity would facilitate and control certain services at each of the three locations during a two-year transitional period. After that period, the entity, that is the DRPA, would provide regional port services and operations to the bi-state region. Specific provisions include:

- Identification of the number and method of appointment of board members. Equal representation will exist between the two states, nine members each. All members will be appointed and not elected in both states.
- Length of appointments of board members. In New Jersey, appointments are staggered. In Pennsylvania, appointments concur with the term of the appointing authorities be they from the governor, state senate, or house.
- Constraints of the board in terms of voting authority and regulation of the board.
- Source of funding for operation of the entity to come exclusively from the DRPA after the two-year transition period. After the transition, the DRPA will be responsible for all subsidies.
- The ownership, method of operation, acquisition, and dissolution of facilities.
- Development of protocol for handling of all cargo entering the region.
- Veto power of the respective governors.
- Rules for approval of all documents during the transition period and leading up to the complete unification.

Port of Duluth-Superior

The region first explored regionalization in the early 1970s for the purpose of creating the Seaway Port Authority of Duluth-Superior. The operational entity is now referred to as the Duluth Seaway Port Authority. The intent was to merge the Seaway Port Authority of Duluth-Superior with the Superior Harbor Commission. For reasons described in previous chapters, the merger was not complete. The intent was for Superior to join Duluth rather than merge. The following provisions are summarized from the suggested compact and suggested enabling legislation for the State of Wisconsin:
- Designation of the number of board members, or commissioners, with appointments and terms determined by each state.
- Voting rules for the board to include approving bond spending and other financial matters.
- Specifics and requirements of the board and the commissioners.
- The statement of the authority’s legal status.
- Financial statement for collecting, for example, fees, charges, fines, and forfeitures as well as the acceptance of gifts and donation.
- Power and duties of the authority to include acquiring and holding property constructing, leasing, altering, maintaining, and operating harbor facilities.

Ports of Houston and Galveston

Senate Bill 1665 mandated that the region explore and initiate further negotiations for port regionalization. Subchapter D, Chapter 62, Water Code includes three important amendments. The first allows for the acquisition of land, equipment, or improvements to certain counties. The amendment applies to districts of a certain population (2.8 million or more) and allows the district to acquire and own land and equipment of improvement in a district adjacent to the primary district’s county. The ownership, for one, must be necessary, required, or convenient to the development and operation of a navigable water body within the district’s county. The ownership of necessary, required, or convenient property may occur in the district’s adjacent county.

The second amendment allows for two additional commissioners to the primary district’s operating board. The new commissioners must come from a county adjacent to the primary district and be selected by the adjacent district’s county governing body.

The final amendment involves the spending of bond proceeds for certain acquisitions of certain districts. The primary district acquiring land or equipment or making improvements cannot spend bond proceeds approved by that district’s voters prior to the acquisition.

These amendments amount to three things:

- The acquisition, or lease, of Galveston’s East End Container Terminal.
- The addition of up to two more commissioners to the existing board of commissioners of the Port of Houston from Galveston County to be appointed by county government.
- The prohibition of spending any bond money, such as the bond money approved for Bayport, in Galveston County for the purpose of improving the docks and cranes at the Port of Galveston.

Senate Bill 1665 appears similar to the other compacts and charters described above. The bill defines the number of board appointees and the method of appointment. The bill authorizes the acquisition of property. The most important issue the bill addresses, however, is different from the other compacts. The bill does not authorize spending of one port's money on another. This may be because the bill is not an official declaration of a port merger but simply an act created to aid ports in the region of Galveston Bay. The spending of bond money is an issue that would need to be resolved if an official, state sanctioned legislative compact is created for the purpose of merging the Ports of Houston and Galveston.
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APPENDIX

The appendix includes the following items:

- Complete port legislation for the Port of Hampton Roads, Virginia
- The compact for the Port of New York-New Jersey
- Term sheet for the formation of Ports of Philadelphia and Camden, New Jersey
- Suggested compact the Port of Duluth-Superior
- Senate Bill 1665 for the Houston-Galveston merger
PORT OF HAMPTON ROADS, VIRGINIA

Approved

Be it enacted by the General Assembly of Virginia:


§ 2.1-41.2. Appointment of agency heads.—Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of State government except the following: the Director of the State Council of Higher Education for Virginia, the Executive Director of the Commission of Game and Inland Fisheries, and the Director of the Virginia Supplemental Retirement System; provided, however, that the manner of selection of those heads of agencies chosen by election as of January one, nineteen hundred seventy-six, or as set forth in the Constitution of Virginia shall continue without change. Each administrative head appointed by the Governor pursuant to this section shall be subject to confirmation by the General Assembly, shall have such professional qualifications as may be prescribed by law, and shall serve at the pleasure of the Governor. For the purpose of this section, “agency” shall include all administrative units established by law or by executive order which are not arms of the legislative or judicial branches of government, which are not educational institutions as classified under §§ 9-151.1, 9-151.2, and 23-181.1, 23-252, and 23-254, which are not regional planning districts, regional transportation authorities or districts, or regional sanitation districts and which are not assigned by law to other departments or agencies, not including assignments to secretaries under Chapter 5.1 (§ 2.1-51.7 et seq.) of this title.

§ 2.1-342. Official records to be open to inspection; procedure for requesting records and responding to request; charges; exceptions to application of chapter.—(a) Except as otherwise specifically provided by law, all official records shall be open to inspection and copying by any citizens of this Commonwealth during the regular office hours of the custodian of such records. Access to such records shall not be denied to any such citizen of this Commonwealth, nor to representatives of newspapers and magazines with circulation in this Commonwealth, and representatives of radio and television stations broadcasting in or into this Commonwealth; provided, that the custodian of such records shall take all necessary precautions for their preservation and safekeeping. Any public body covered under the provisions of this chapter shall make an initial response to citizens requesting records open to inspection within fourteen calendar days from the receipt of the request by the public body. Such citizen request shall designate the requested records with reasonable specificity. If the requested records or public body are excluded from the provisions of this chapter, the public body to which the request is directed shall within fourteen calendar days from the receipt of the request tender a written explanation as to why the records are not available to the requestor. Such explanation shall make specific reference to the applicable provisions of this chapter or other Code sections which make the requested records unavailable. In the event a determination of the availability of the requested records may not be made within the fourteen-calendar-day period, the public body to which the request is directed shall inform the requestor as such, and shall have an additional ten calendar days in which to make a determination of availability. A specific reference to this chapter by the requesting citizen in his records request shall not be necessary to invoke the time limits for response by the public body. The public body may make reasonable charges for the copying and search time expended in the supplying of such records; however, in no event shall such charges exceed the actual cost of the public body in supplying such records. Such charges for the supplying of requested records shall be estimated in advance at the request of the citizen.

(b) The following records are excluded from the provisions of this chapter:
(1) Memoranda, correspondence, evidence and complaints related to criminal investigations, reports submitted to the State and local police in confidence, and all records of persons imprisoned in a penal institution in this Commonwealth provided such records relate to the said imprisonment; provided, however, that information in the custody of law-enforcement officials relative to the identity of any individual other than a juvenile who is arrested and charged, and the status of the charge of arrest, shall not be excluded from the provisions of this chapter.

(2) Confidential records of all investigations of applications for licenses and all licensees made by or submitted to the Alcoholic Beverage Control Commission.

(3) State income tax returns, scholastic records and personnel records, except that such access shall not be denied to the person who is the subject thereof, and medical and mental records, except that such records can be personally reviewed by the subject person or a physician of the subject person’s choice; provided, however, that the subject person’s mental records may not be personally reviewed by such person when the subject person’s treating physician has made a part of such person’s records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person’s physical or mental health or well-being. Where the person who is the subject of scholastic or medical and mental records is under the age of eighteen, his right of access may be asserted only by his parent or guardian, except in instances where the person who is the subject thereof is an emancipated minor or a student in a State-supported institution of higher education.

(4) Memoranda, working papers and correspondence held or requested by members of the General Assembly or by the office of the Governor or Lieutenant Governor, Attorney General or the mayor or other chief executive officer of any political subdivision of the Commonwealth or the president or other chief executive officer of any State-supported institutions of higher education.

(5) Memoranda, working papers and records compiled specifically for use in litigation and material furnished in confidence with respect thereto.

(6) Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

(7) Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

(8) Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student’s performance, (ii) any employee or employment seeker’s qualifications or aptitude for employment, retention, or promotion, (iii) qualifications for any license or certificate issued by any public body.

As used in this subsection (8), “test or examination” shall include (i) any scoring key for any such test or examination, and (ii) any other document which would jeopardize the security of such test or examination. Nothing contained in this subsection (8) shall prohibit the release of test scores or results as provided by law, or to limit access to individual records as is provided by law, provided, however, that the subject of such employment tests shall be entitled to review and inspect all documents relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, such test or examination shall be made available to the public; provided, however, that minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

(9) Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Regulatory Boards or any board in that department on individual licensees or applicants; provided, however, that such material may be made available during normal working hours for copying, at the requestor’s expense, by the individual who is subject thereof, in the offices of the Department of Health Regulatory Boards or in the offices of any health regulatory board, whichever may possess the material.

(10) Records of active investigations being conducted by the Department of Health Regulatory Boards or by any health regulatory board in the State.

(11) Memoranda, working papers and records recorded in or compiled exclusively for executive or closed meetings lawfully held pursuant to § 2.1-344.

(12) Proprietary information gathered by or for the Virginia Port Authority as provided
in § 62.1-132.4.

(c) Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to records of the position, job classification, official salary or rate of pay of, and to records of the allowances or reimbursements for expenses paid to any public officer, official or employee at any level of State, local or regional government in this Commonwealth whatsoever; provided, however, that the provisions of this subsection shall not apply to records of the official salaries or rates of pay of public employees whose annual rate of pay is ten thousand dollars or less.

§ 2.1-384. Systems to which chapter inapplicable.—The provisions of this chapter shall not be applicable to personal information systems:
1. Maintained by any court of this Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9-111.3 through 9-111.14;
5. Maintained by agencies concerning persons required to be licensed by law in this State to engage in the practice of any professional occupation, in which case the names and addresses of persons applying for or possessing any such license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing such licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided such disseminating agency is reasonably assured that the use of such information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, and the Department of Alcoholic Beverage Control; and
7. Maintained by the police departments of cities, counties, and towns and which deal with investigations and intelligence gathering relating to criminal activity; and
8. Maintained by the Virginia Port Authority as provided in § 62.1-132.4.

§ 9-109. Powers.—In addition to powers conferred upon the Commission elsewhere in this chapter, the Commission shall have power to:
(1) Promulgate rules and regulations, pursuant to Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia, for the administration of this chapter including the authority to require the submission of reports and information by police officers within this State. Any proposed rules and regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof.

(2) Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer, (a) in permanent positions, and (b) in temporary or probationary status, and establish the time required for completion of such training.

(3) Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers, provided that the Virginia Port Authority Police Department shall be empowered to prescribe for port security personnel a different curriculum more suitable to specialized training needs.

(3a) Establish compulsory training courses for law-enforcement officers in laws and procedures relating to entrapment, search and seizure, evidence and techniques of report writing, which training shall be completed by law-enforcement officers who have not completed the compulsory training standards set out in (2) hereof, prior to assignment of any such officers to undercover investigation work; provided, that failure to complete such training shall not, for that reason, constitute grounds to exclude otherwise properly admissible testimony or other evidence from such officer resulting from any undercover investigation.

(4) Consult and cooperate with counties, municipalities, agencies of this State, other federal and State governmental agencies, and with universities, colleges, junior colleges, and other institutions, whether located in or outside the Commonwealth, concerning the development of police training schools and programs or courses of instruction.

(5) Approve institutions, curriculum and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not.

(5a) Establish compulsory minimum qualifications of certification and recertification for
individuals instructing in criminal justice training schools approved by the Commission.

(6) Make or encourage studies of any aspect of law-enforcement administration.

(7) Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement.

(8) Make recommendations concerning any matter within its purview pursuant to this chapter.

(9) [Repealed.]

(10) Adopt and amend rules and regulations, consistent with law, for its internal management and control.

(11) Enter into contracts or do such things as may be necessary and incidental to the administration of its authority pursuant to this chapter.

(12) Coordinate its activities with those of any interstate system for the exchange of criminal history record information, to nominate one or more of its members to serve upon the council or committee of any such system, and to participate when and as deemed appropriate in any such system's activities and programs.

(13) Conduct such inquiries and investigations as it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, the Commission shall have the authority to require any criminal justice agency to submit to the Commission information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit to the Commission such information, reports, and data as are reasonably required.

(14) Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information.

(15) Conduct audits as required by § 9-111.5.

(16) Advise criminal justice agencies and to initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information.

(17) Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof.

(18) Issue regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information and the privacy, confidentiality, and security thereof necessary to implement State and federal statutes, federal regulations, and court orders.

(19) The Department of State Police shall be the control terminal agency for the Commonwealth and perform all functions required of a control terminal agency by the rules and regulations of the National Crime Information Center. Notwithstanding anything to the contrary in this article, the Central Criminal Records Exchange and the Department of State Police shall remain the central repository for criminal history record information in the Commonwealth and the Department shall continue to be responsible for the management and operation of such exchange.

§ 62.1-128. Authority created.—The Division of Ports of the Department of Conservation and Development is hereby abolished. The Virginia State Ports Port Authority, hereinafter referred to as the Authority, is created as a body corporate and as such shall have, and is hereby vested with, the powers and duties hereinafter conferred in this chapter which Authority, on and after July one, nineteen hundred seventy, shall be known and designated as the Virginia Port Authority.

§ 62.1-129. Board of Commissioners; members and officers; Executive Director; agents and employees.—All powers, rights and duties conferred by this chapter, or other provisions of law, upon the Authority shall be exercised by the Board of Commissioners of the Virginia Port Authority, hereinafter referred to as Board or Board of Commissioners. The Board shall consist of eleven members to be appointed by the Governor, subject to confirmation by the General Assembly, and who shall serve at the pleasure of the Governor, for terms as follows: Three appointments made in nineteen hundred seventy to increase the size of the Board shall be for terms of four years and one such appointment shall be for a term of six years; one of the current terms ending in nineteen hundred seventy shall be filled by an appointment for a term of four years and the other shall be filled by an appointment for a term of six years; the appointment made to fill the current term ending in nineteen hundred seventy-three shall be for a term of three years; one of the terms ending in nineteen hundred seventy-four shall be filled by an appointment for a term of two years and the other shall be filled by an appointment for a term of four years; the appointments made to fill the current terms ending in nineteen hundred...
seventy-five shall be for terms of three years; and all subsequent appointments shall be for terms of six years, except appointments to fill vacancies, which shall be made for the unexpired term. The terms of all members of the Board of Commissioners appointed or reappointed on or after January one, nineteen hundred eighty-one, shall be for five years. Any appointment to fill a vacancy shall be for the unexpired term. Members of the Board shall receive their expenses and shall be compensated at the rate provided in § 2.1-20.3 of the Code of Virginia for each day spent on business of the Board. No person shall be eligible to serve more than two successive terms; provided that a person heretofore or hereafter appointed to fill a vacancy may be appointed to serve two additional terms. Incumbency during the current term when this amendment takes effect shall constitute the first or second, as the case may be, of the two successive terms with respect to eligibility for appointment. Beginning with those members of the Board of Commissioners appointed or reappointed on or after January one, nineteen hundred eighty-one: (i) appointments shall be made by the Governor in such a manner as to ensure the widest possible geographical representation of all parts of the Commonwealth, and (ii) no resident of the cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, or Virginia Beach shall be eligible for appointment or reappointment to the Board of Commissioners if his appointment or reappointment would increase or maintain the number of members of the Board of Commissioners residing in such cities above the number of three.

The Board shall elect from its membership a chairman and vice-chairman and may also elect from its membership, or appoint from its staff, a secretary and treasurer and prescribe their powers and duties.

The chief executive officer of the Authority, who shall not be a member of the Board, shall be known as the Executive Director. The Executive Director shall be appointed by the Governor, subject to confirmation by the General Assembly, and shall serve at the pleasure of the Governor. The Executive Director’s compensation from the State shall be fixed by the Board in accordance with law. This compensation shall be established at a level which will enable the Authority to attract and retain a capable Executive Director. The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary subject to the Board’s approval. The Board shall elect from its membership the chairman and the vice-chairman and may elect from its membership or appoint from its staff a secretary and a treasurer, and prescribe their powers and duties.

The Board may also appoint from the staff an assistant secretary and an assistant treasurer, who shall, in addition to other duties, discharge such functions of the secretary and treasurer, respectively, as may be directed by the Board.

§ 62.1-130. Powers and duties of Executive Director.—The Executive Director shall employ or retain such other agents or employees subordinate to the Executive Director as may be necessary, subject to the Board’s approval. The Executive Director shall also exercise such of the powers and duties relating to ports conferred upon the Board as may be delegated to him by the Board, including powers and duties involving the exercise of discretion. The Executive Director shall also exercise and perform such other powers and duties as may be lawfully delegated to him, and such powers and duties as may be conferred or imposed upon him by law.

§ 62.1-131. Office and branch offices; title to property. The Authority shall, in the Hampton Roads Area, have and maintain its principal office, at which all of its records shall be kept, and from which its business shall be transacted. It may, if necessary, establish a branch office or offices within or without this State the Commonwealth or the United States. The title to all property of every kind belonging to the former Hampton Roads Port Commission or the former State Port Authority of Virginia or the former Division of Ports Department of Conservation and Development, shall be vested in the Commonwealth of Virginia for the Virginia Port Authority.

§ 62.1-132. Local authorities subordinate to Authority.—In order to promote the development and the physical and administrative coordination and unification of the port facilities within the cities and towns of this State, located upon any of the navigable tidal waters therein, and the proper cooperation between such cities and towns with respect to such facilities located within the State, boards of municipal dock commissioners heretofore existing shall continue in effect in accordance with the laws creating them, the only effect of this section on such laws being that the boards shall henceforth be known as boards of municipal port commissioners and that the exercise of their authority shall be in subordination to the authority conferred upon the Board of Commissioners by this chapter, and any conflict between the any authority granted to the several port cities and towns or other entity entities of this State Commonwealth, or the exercise of that authority, and the exercise of the authority granted to such the Board of Commissioners under this chapter.
shall be resolved in favor of the exercise of such authority by the Board of Commissioners.

There is hereby created an Executive Council of the several local municipal port authorities. The membership of the Executive Council shall consist of the chief executive officers or his designee and the chairman of the Board or his designee of the local port authority of each of Virginia's municipal port cities. The Executive Council shall assist in achieving an orderly and efficient utilization of Virginia's port facilities by meeting quarterly or more frequently, as desired with the Executive Director of the Authority and from time to time with the Board of Commissioners of said Authority, and advising on port matters generally and especially with respect to the following:

(1) Uniformity of port rates, practices and maximum utilization of all facilities and promoting a spirit of cooperation among the port cities in the interest of Virginia as a whole;

(2) The development of the ports of Virginia and keeping the Executive Director of the Authority informed as to present and future needs of the ports of Virginia;

(3) The location and scope of new terminal facilities; and

(4) A unified program of trade development, statistical research and public relations.

The powers and functions of the Executive Council shall be advisory only.

§ 62.1-132.1. General powers.—The Authority is vested with the powers of a body corporate. It may sue and be sued, make contracts, adopt and use a common seal, and alter such seal at its pleasure.

§ 62.1-132.2. Bylaws and organization.—The Authority shall have the power to adopt, alter, and repeal bylaws, rules, and regulations governing the manner in which its business shall be transacted and the manner in which the powers of the Authority shall be exercised and its duties performed. Such bylaws, rules, and regulations may provide for such committees and their functions as the Authority may deem necessary or expedient.

§ 62.1-132.3. Stimulation of commerce.—It shall be the duty of the Authority, on behalf of the Commonwealth, to foster and stimulate the commerce of the ports of the Commonwealth, to promote the shipment of goods and cargoes through the ports, to seek to secure necessary improvements of navigable tidal waters within the Commonwealth, and in general to perform any act or function which may be useful in developing, improving, or increasing the commerce, both foreign and domestic, of the ports of the Commonwealth.

§ 62.1-132.4. Rates and rate structures.—The Authority shall have power to establish a traffic bureau or other office to investigate and seek improvement in any rates, rate structures, practices, and charges affecting or tending to affect the commerce of the ports of the Commonwealth. Notwithstanding any provision of law to the contrary, the Authority shall not disclose proprietary information and data furnished to it in confidence, including but not limited to ship tally sheets, ship manifests, and other information relating to tonnages and cargoes.

§ 62.1-132.5. Planning.—The Authority shall initiate and further plans for the development of the ports of the Commonwealth, and, to this end, shall keep informed as to the present requirements and likely future needs of those ports.

§ 62.1-132.6. Powers not restrictive.—The Authority shall have the power to perform any act or carry out any function not inconsistent with State law, whether included in the provisions of this chapter, which may be, or tend to be, useful in carrying out the provisions of this chapter.

§ 62.1-132.7. Employment of personnel and legal counsel.—A. Subject to the provisions of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 of the Code of Virginia, the Authority may appoint, employ, dismiss, fix and pay compensation of employees within and without the Commonwealth and the United States without regard to whether such employees are citizens of the United States.

B. The Authority may retain legal counsel, subject to the approval of the attorney general, to represent the Authority in rate cases and all other hearings, controversies, or matters involving the interests of the Authority.

§ 62.1-132.8. Consolidation of terminal operations.—The Authority shall effect consolidation of the water terminals of the several cities within the ports of the Commonwealth. It, specifically, shall bring about the centrally directed operation of all State-owned port facilities at Hampton Roads by such means as may prove necessary or desirable, not inconsistent with State law.

§ 62.1-132.9. Foreign trade zones.—The Authority is empowered to develop, maintain, and operate foreign trade zones under such terms and conditions as are or may be prescribed by law.

§ 62.1-132.10. Publications of Authority.—A. The Authority may issue periodicals and carry and charge for advertising therein.
B. The Authority may compile and disseminate in a single publication all port charges, rules, and practices in effect at the several ports in the Commonwealth.

§ 62.1-132.11. Police powers; penalties.—The Authority is empowered to adopt and enforce reasonable rules and regulations governing (i) the maximum and minimum speed limits of motor vehicles using Authority property, (ii) the kinds and sizes of vehicles which may be operated upon Authority property, (iii) materials which shall not be transported through or over Authority property, and (iv) other matters affecting the safety and security of Authority property. Such rules and regulations shall have the force and effect of law (i) after publication one time in full in a newspaper of general circulation in the city or county where the affected property is located, and (ii) when posted where the public using such property may conveniently see them. Violation of any rule or regulation which would have been a violation of law or ordinance if committed on a public street or highway shall be tried and punished as if it had been committed on a public street or highway. Any other violation of such rules and regulations shall be punishable as a Class 1 misdemeanor.

§ 62.1-132.12. Employment, jurisdiction, and power of special police officers.—A. The Authority may appoint and employ special police officers to enforce the laws of the Commonwealth and rules and regulations adopted pursuant to § 62.1-132.11 on Authority property. Such special police officers shall have the powers vested in police officers under §§ 15.1-138 and 52-8 of the Code of Virginia. Such special police officers may issue summons to appear, or arrest on view or on information without warrant as permitted by law, and conduct before the court of the city or county of competent jurisdiction any person violating, upon property under the control of the Authority, any rule or regulation of the Authority, any law of the Commonwealth, or any ordinance or regulation of any political subdivision of the Commonwealth.

B. The court or courts having jurisdiction for the trial of criminal offenses of the city or county wherein the offense was committed shall have jurisdiction to try persons charged with violating any such laws, ordinances, rules, or regulations. Fines and costs assessed or collected for violation of any such law, ordinance, rule, or regulation shall be paid into the Literary Fund.

§ 62.1-132.13. Cooperation with federal agencies.—The Authority is empowered to cooperate with, and to act as an agent for, the United States of America or any agency, department, corporation or instrumentality thereof in the maintenance, development, improvement, and use of harbors and seaports of the Commonwealth, and in any other matter within the purposes, duties, and powers of the Authority.

§ 62.1-132.14. Agreement of local cooperation with Corps of Engineers.—The Authority is empowered, on behalf of and as an agent for the Commonwealth, with the approval of the Governor and after review by the Attorney General, to enter into contractual agreements, known as agreements of local cooperation, developed and tendered by the United States Army Corps of Engineers for signature by local nonfederal interests.

§ 62.1-132.15. Grants and loans from federal agencies.—The Authority may apply for and accept grants or loans of money or property from any federal agency for any purpose authorized in this chapter. It may expend or use such money or property in accordance with any directions, requirements, or conditions which may be imposed by the agency.

§ 62.1-132.16. Fees and charges.—Under such terms and conditions as may be prescribed by law, the Authority may fix, alter, charge, and collect tolls, fees, rentals, and any other charges for the use of, or for services rendered by, any Authority facility. The Authority may impose, levy, and collect such other fees and charges as may assist in defraying the expenses of administration, maintenance, development, or improvement of the ports of the Commonwealth, their cargo handling facilities, and harbors.

§ 62.1-132.17. Grants of funds and property.—Persons, counties, cities, and towns are hereby authorized to grant, and the Authority is empowered to accept, funds and property to use, within the scope of other powers and duties of the Authority, as stipulated by the grantor.

§ 62.1-132.18. Acquisition of property.—A. The Authority is authorized to acquire, construct, maintain, equip, and operate marine terminals, port facilities, wharves, docks, ships, piers, quays, elevators, compressors, refrigeration storage plants, warehouses, and other structures necessary for the convenient use of the same in the aid of commerce. The Authority is further authorized to undertake or make arrangements for the dredging of approaches to each facility and the construction of shipping facilities and transportation facilities incident thereto. The Authority shall have the power to issue revenue bonds for such acquisitions and purposes.

B. When such facilities or equipment is acquired from any political subdivision of the Commonwealth, the Authority is authorized to give written assurances, including
agreements to reconvey properties to such political subdivision, for the installment payments for any terminals, facility, or equipment thus acquired.

§ 62.1-132.19. Acquisition and lease of property.—A. The Authority is empowered to rent, lease, buy, own, acquire, construct, reconstruct, and dispose of harbors, seaports, port facilities, and such property, whether real or personal, as it may find necessary or convenient and issue revenue bonds therefor without pledging the faith and credit of the Commonwealth.

B. The Authority may lease to another such part or all of its real or personal property for such period and upon such terms and conditions as the Authority may determine.

C. The Authority shall neither expend funds nor incur any indebtedness for any improvement, repair, maintenance, or addition to any real or personal property owned by anyone other than the Authority, the Commonwealth, or a political subdivision of the Commonwealth, unless either (i) the use of such property is guaranteed to the Authority or the Commonwealth by a lease extending beyond the useful life of the improvement, repair, maintenance, addition, or new facility, or (ii) such expenditure or indebtedness is approved in writing by the Governor.

§ 62.1-136. Power of eminent domain.—The Authority is hereby vested with the power of eminent domain to acquire property or any interest therein, however held, but not property of the State or its agencies, and may exercise the same for the purposes set forth in §§ 62.1-122 through 62.1-126 in the manner and to the extent set forth in, and subject to the provisions of, Title 25 of the Code of Virginia; provided that the Authority shall have no power to condemn any property belonging to any other political subdivision of the Commonwealth, or to any common carrier, or public utility or other public service corporation which is being devoted to public use or service. Whether property is being devoted to public use or service in the case of a public service corporation, common carrier, or public utility, shall be decided by the State Corporation Commission in a proceeding under § 25-233; and in the case of a political subdivision shall be decided by the court in which the proceeding is brought.

§ 62.1-140. Definitions; bond resolution; form and requisites of bonds; sale and disposition of proceeds; temporary bonds.—(A) As used in this section and in §§ 62.1-141 through 62.1-146, the words “port facility” shall mean harbors, seaports and all facilities used in connection therewith and shall include all those facilities named in §§ 62.1-134 (b), 62.1-135 (b) and 62.1-135 (c) 62.1-132.18 and 62.1-132.19.

The word “cost” as used in this chapter shall embrace the cost of construction, the cost of the acquisition of all land, rights-of-way, property, rights, easements and interests acquired by the Authority for such construction, the cost of all machinery and equipment, financing charges, interest prior to and during construction and, if deemed advisable by the Authority, for one year after completion of construction, engineering and legal expenses, cost of plans, specifications, surveys and estimates of cost and of revenues, other expenses necessary or incident to determining the feasibility or practicability of constructing any port facility, administrative expense, the creation of a working capital fund for placing the port facility in operation and such other expense as may be necessary or incident to the construction of such port facility, the financing of such construction and the placing of the same in operation.

(B) The Authority is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the Authority for the purpose of paying all or any part of the cost of any Authority project for the acquisition, construction, reconstruction or control of port facilities or of any portion or portions thereof. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at the prevailing rate of interest at the time, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the Authority, and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the Executive Director of the Authority or shall bear his facsimile signature, and the official seal of the Authority or a facsimile thereof shall be impressed or imprinted thereon and attested by the secretary of the Authority, and any coupons attached thereto shall bear the facsimile signature of the Executive Director of the Authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such
bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this chapter shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the negotiable instruments law of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as to both principal and interest, and for the interchange of registered and coupon bonds. The Authority may sell such bonds in such manner, either at public or private sale, and for such price, as it may determine will best effect the purposes of this chapter.

The proceeds of the bonds of each issue shall be used solely for the payment of the cost of acquisition, construction, reconstruction and control of port facilities or the portion thereof for which such bonds shall have been issued, and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds, or, if such bonds shall have been issued for paying the cost of a portion of the project, such surplus may be applied to the payment of the cost of any remaining portion of the project.

Prior to the preparation of definitive bonds, the Authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this chapter without obtaining the consent of any department, division, commission, board, bureau or agency of the Commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this chapter.


______________________________
President of the Senate

______________________________
Speaker of the House of Delegates

Approved:

______________________________
Governor
PORT OF NEW YORK-NEW JERSEY
COMPACT

BETWEEN THE

States of New York and New Jersey

1921

For the Creation of the “Port of New York District” and the Establishment of the “Port of New York Authority” for the Comprehensive Development of the Port of New York

Entered into Pursuant to Chapter 154, Laws of New York, 1921; Chapter 151, Laws of New Jersey, 1921
ARTICLE I.

They agree to and pledge, each to the other, faithful co-operation in the future planning and development of the port of New York, holding in high trust for the benefit of the nation the special blessings and natural advantages thereof.

ARTICLE II.

To that end the two states do agree that there shall be created and they do hereby create a district to be known as the "Port of New York District" (for brevity hereinafter referred to as "The District") which shall embrace the territory bounded and described as follows:

The district is included within the boundary lines located by connecting points of known latitude and longitude. The approximate courses and distances of the lines enclosing the district are recited in the description, but the district is determined by drawing lines through the points of known latitude and longitude. Beginning at a point A of latitude forty-one degrees and four minutes north and longitude seventy-three degrees and fifty-six minutes west, said point being about sixty-five hundredths of a mile west of the westerly bank of the Hudson river and about two and one-tenth miles northwest of the pier at Piermont, in the county of Rockland, state of New York; thence due south one and fifteen-hundredths miles more or less to a point B of latitude forty-one degrees and three minutes north and longitude seventy-three degrees and fifty-six minutes west; said point being about one and three-tenths miles northwest of the pier at Piermont, in the county of Rockland, state of New York; thence south fifty-six degrees and thirty-four minutes west six and twenty-six hundredths miles more or less to a point C of latitude forty-one degrees and no minutes north and longitude seventy-four degrees and two minutes west; said point being about seven-tenths of a mile north of the railroad station at Westwood, in the county of Bergen, state of New Jersey; thence south sixty-eight degrees and twenty-four minutes west nine and thirty-seven-hundredths miles more or less to a point D of latitude forty degrees and fifty-seven minutes north and longitude seventy-four degrees and twelve minutes west, said point being about three miles northwest of the business center of the city of Paterson, in the county of Passaic, state of New Jersey; thence south forty-seven degrees and seventeen minutes west eleven and eighty-seven-hundredths miles more or less to a point E of latitude forty degrees and fifty minutes north and longitude seventy-four degrees and twenty-two minutes west, said point being about four and five-tenths miles west of the Borough of Caldwell, in the county of Morris, state of New Jersey; thence due south nine and twenty-hundredths miles more or less to a point F of latitude forty degrees and forty-two minutes north and longitude seventy-four degrees and twenty-two minutes west, said point being about one and two-tenths miles southwest of the passenger station of the Delaware,
WHEREAS, In the year eighteen hundred and thirty-four the states of New York and New Jersey did enter into an agreement fixing and determining the rights and obligations of the two states in and about the waters between the two states, especially in and about the bay of New York and the Hudson river; and

WHEREAS, Since that time the commerce of the port of New York has greatly developed and increased and the territory in and around the port has become commercially one center or district; and

WHEREAS, It is confidently believed that a better co-ordination of the terminal, transportation and other facilities of commerce in, about and through the port of New York, will result in great economies, benefiting the nation, as well as the states of New York and New Jersey; and

WHEREAS, The future development of such terminal, transportation and other facilities of commerce will require the expenditure of large sums of money and the cordial co-operation of the states of New York and New Jersey in the encouragement of the investment of capital, and in the formulation and execution of the necessary physical plans; and

WHEREAS, Such result can best be accomplished through the co-operation of the two states by and through a joint or common agency.

Now, therefore, The said states of New Jersey and New York do supplement and amend the existing agreement of eighteen hundred and thirty-four in the following respects:
The boundaries of said district may be changed from time to time by the action of the legislature of either state concurred in by the legislature of the other.

ARTICLE III.

There is hereby created "The Port of New York Authority" (for brevity hereinafter referred to as the "Port Authority"), which shall be a body corporate and politic, having the powers and jurisdiction hereinafter enumerated, and such other and additional powers as shall be conferred upon it by the legislature of either state concurred in by the legislature of the other, or by act or acts of congress, as hereinafter provided.

ARTICLE IV.

The port authority shall consist of six commissioners — three resident voters from the state of New York, two of whom shall be resident voters of the city of New York, and three resident voters from the state of New Jersey, two of whom shall be resident voters within the New Jersey portion of the district, the New York members to be chosen by the state of New York and the New Jersey members by the state of New Jersey in the manner and for the terms fixed and determined from time to time by the legislature of each state respectively, except as herein provided.

Each commissioner may be removed or suspended from office as provided by the law of the state for which he shall be appointed.

ARTICLE V.

The commissioners shall, for the purpose of doing business, constitute a board and may adopt suitable by-laws for its management.

ARTICLE VI.

The port authority shall constitute a body, both corporate and politic, with full power and authority to purchase, construct, lease and/or operate any terminal or transportation facility within said district; and to make charges for the use thereof; and for any of such purposes to own, hold, lease and/or operate real or personal property, to borrow money and secure the same by bonds or by mortgages upon any property held or to be held by it. No property now or hereafter vested in or held by either state, or by any county, city, borough, village, township or other municipality, shall be taken by the port authority, without the authority or consent of such state, county, city, borough, village, township or other municipality, nor shall anything herein impair or invalidate in any way any bonded indebtedness of such state, county, city, borough, village, township or other municipality, nor impair the provisions of law regulating the payment into
ARTICLE XII.

The port authority may from time to time make recommendations to the legislatures of the two states or to the congress of the United States, based upon study and analysis, for the better conduct of the commerce passing in and through the port of New York, the increase and improvement of transportation and terminal facilities therein, and the more economical and expeditious handling of such commerce.

ARTICLE XIII.

The port authority may petition any interstate commerce commission (or like body), public service commission, public utilities commission (or like body), or any other federal, municipal, state or local authority, administrative, judicial or legislative, having jurisdiction in the premises, after the adoption of the comprehensive plan as provided for in article X for the adoption and execution of any physical improvement, change in method, rate of transportation, system of handling freight, warehousing, docking, lightering or transfer of freight, which, in the opinion of the port authority, may be designed to improve or better the handling of commerce in and through said district, or improve terminal and transportation facilities therein. It may intervene in any proceeding affecting the commerce of the port.

ARTICLE XIV.

The port authority shall elect from its number a chairman, vice-chairman, and may appoint such officers and employees as it may require for the performance of its duties, and shall fix and determine their qualifications and duties.

ARTICLE XV.

Unless and until the revenues from operations conducted by the port authority are adequate to meet all expenditures, the legislatures of the two states shall appropriate, in equal amounts, annually, for the salaries, office and other administrative expenses, such sum or sums as shall be recommended by the port authority and approved by the governors of the two states, but each state obligates itself hereunder only to the extent of one hundred thousand dollars in any one year.

ARTICLE XVI.

Unless and until otherwise determined by the action of the legislatures of the two states, no action of the port authority shall be binding unless taken at a meeting at which at least two members from each state are present and unless four votes are cast therefor, two from each state. Each state reserves the right hereafter to provide by law for the exercise of a veto power by the governor thereof over any action of any commissioner appointed therefrom.
or other storage elevators, warehouses, cold storage, tracks, yards, sheds, switches, connections, overhead appliances, and every kind of terminal or storage facility now in use or hereafter designed for use for the handling, storage, loading or unloading of freight at steamship, railroad or freight terminals. "Railroads" shall include railways, extensions thereof, tunnels, subways, bridges, elevated structures, tracks, poles, wires, conduits, power houses, substations, lines for the transmission of power, car-barns, shops, yards, sidings, turn-outs, switches, stations and approaches thereto, cars and motive equipment. "Facility" shall include all works, buildings, structures, appliances and appurtenances necessary and convenient for the proper construction, equipment, maintenance and operation of such facility or facilities or any one or more of them. "Real property" shall include land under water, as well as uplands, and all property either now commonly or legally defined as real property or which may hereafter be so defined. "Personal property" shall include choses in action and all other property now commonly or legally defined as personal property or which may hereafter be so defined. "To lease" shall include to rent or to hire. "Rule or regulation," until and unless otherwise determined by the legislatures of both states, shall mean any rule or regulation not inconsistent with the constitution of the United States or of either state, and, subject to the exercise of the power of congress, for the improvement of the conduct of navigation and commerce within the district, and shall include charges, rates, rentals or tolls fixed or established by the port authority; and until otherwise determined as aforesaid, shall not include matters relating to harbor or river pollution. Wherever action by the legislature of either state is herein referred to, it shall mean an act of the legislature duly adopted in accordance with the provisions of the constitution of the state.

Plural or singular. The singular wherever used herein shall include the plural.

Consent, approval or recommendation of municipality; how given. Wherever herein the consent, approval or recommendation of a "municipality" is required, the word "municipality" shall be taken to include any city or incorporated village within the port district, and in addition in the state of New Jersey any borough, town, township or any municipality governed by an improvement commission within the district. Such consent, approval or recommendation whenever required in the case of the city of New York shall be deemed to have been given or made whenever the board of estimate and apportionment of said city or any body hereafter succeeding to its duties shall by majority vote pass a resolution expressing such consent, approval or recommendation; and in the case of any municipality now or hereafter governed by a commission, whenever the commission thereof shall by a majority vote pass such a resolution; and in all other cases whenever the body authorized to grant consent to the use of the streets or highways of such municipality shall by a majority vote pass such a resolution.
PORTS OF PHILADELPHIA AND CAMDEM, NEW JERSEY
TERM SHEET FOR THE FORMATION OF
THE PORTS OF PHILADELPHIA AND CAMDEN, INC.
(November 12, 1993, Revised December 10, 1993)

Proposed Name
The Ports of Philadelphia and Camden, Inc. (the "Service Corp.")

Corporate Form
Pennsylvania nonprofit corporation

Parties to Formation
A) Delaware River Port Authority ("DRPA")
B) Philadelphia Regional Port Authority ("PRPA")
C) South Jersey Port Corporation ("SJPC")

Purpose
The Service Corp. shall be formed (1) to facilitate and coordinate certain port services currently provided by the DRPA, the PRPA, and the SJPC, and (2) after the 2 year transition period, to provide regional port services and operations within the bi-state territory of the DRPA.

Board Structure
A) The Board of the Service Corp. (the "Board") shall be comprised of 18 members:

1) Nine (9) Pennsylvania Board members, and
2) Nine (9) New Jersey Board members.

Board Membership
A) The 9 Pennsylvania Board members shall not be elected public officials and shall be appointed as follows:

1) Three members to be appointed by the Governor of Pennsylvania.
2) One member to be appointed by the President pro tempore of the Pennsylvania Senate.
3) One member to be appointed by the Minority Leader of the Pennsylvania Senate.
4) One member to be appointed by the Speaker of the Pennsylvania House of Representatives.
5) One member to be appointed by the
Minority Leader of the Pennsylvania House of Representatives.

6) One member representing the City of Philadelphia to be appointed by the Governor of Pennsylvania from a list of 3 names submitted by the Mayor of Philadelphia.

7) One member, who shall be a DRPA Board member, to be selected by the Pennsylvania members of the DRPA Board.

B) The 9 New Jersey Board members shall be appointed as follows:

The founding Board members for New Jersey shall be the seven (7) SJPC Board members and two persons the New Jersey DRPA Commissioners shall choose from among themselves. These persons shall serve until the initial appointments are made by the Governor.

The Governor shall appoint nine members, each of whom shall be a resident of the port district, who shall have been a qualified elector therein for at least the 3 years immediately preceding his appointment. For the purpose of representation on the Board, the port district shall be divided into subdistricts with representation as follows:

(a) The counties of Cape May, Cumberland and Salem shall constitute one subdistrict and shall be represented by two members on the Board who shall be appointed from these counties.

(b) The counties of Camden and Gloucester shall constitute one subdistrict and shall be represented by four members on the Board, at least three of whom shall be appointed from Camden county.

(c) The counties of Burlington and Mercer shall constitute one subdistrict and shall be represented by three members on the Board at least one of whom shall be appointed from each county within this subdistrict.

No more than five Board members representing New Jersey shall be members of the same political party. Each member of the Board shall be appointed by the Governor, with the advice and consent of the Senate, for a term of 4 years and shall serve until his successor is appointed and
has qualified. The term of each of the first appointees hereunder shall be designated by the Governor. Each member of the corporation may be removed from office by the Governor or by the Legislature, for cause, after a public hearing. Each member of the corporation before entering upon his duties shall take and subscribe an oath to perform the duties of his office faithfully, impartially and justly to the best of his ability. A record of such oaths shall be filed in the office of the Secretary of State.

(d) Any vacancies in the membership of the corporation occurring other than by expiration of term shall be filled in the same manner as the original appointment, but for the unexpired term only.

Terms of Board Members

A) The terms of the New Jersey Board members shall be 4 years and shall be staggered. All New Jersey Board members shall continue to serve until their successors are appointed and qualified.

B) The terms of the Pennsylvania Board members appointed by the leaders of the Pennsylvania Legislature shall be concurrent with the terms of their respective appointing authorities. The terms of the Pennsylvania Board members appointed by the Governor of Pennsylvania shall be 4 years, such terms to commence from the date of appointment. All Pennsylvania Board members shall continue to serve until their successors are appointed and qualified. Pennsylvania Board members may be removed by their respective appointing authority prior to the expiration of their terms.

Chairperson

A member of the Board from one of the States shall serve as the Chairperson and another member of the Board from the other State shall serve as the Vice Chairperson each for a one-year term. These persons shall be designated by the Governor of their respective States. The initial Chairperson shall be a New Jersey board member while the initial Vice Chairperson shall be a Pennsylvania board member. In the next term, the Chairperson shall be a Pennsylvania board member and the Vice Chairperson a New Jersey board member. This rotation shall continue for the life of the corporation. If a vacancy shall occur in the position of Chairperson or Vice Chairperson,
the State who that person represents shall have
the right to name the replacement Chairperson or
Vice Chairperson to fill out the unexpired term.

Board Action

A) All Board actions, except for actions
concerning procedural and non-substantive
matters, shall require the affirmative vote of a
"qualified majority" of the Board. A qualified
majority of the Board shall mean a majority of
the Board which includes at least 10 members of
the Board, consisting of:

1) At least 5 of the 9 New Jersey Board
members appointed by the New Jersey Governor;
and

2) 3 of the 4 Pennsylvania Board members
appointed by the leaders of the Pennsylvania
Legislature and 2 of the 3 Pennsylvania Board
members appointed by the Pennsylvania
Governor (exclusive of the member recommended
by the Mayor of Philadelphia).

Deadlock

A) In the event a deadlock should occur with
respect to any matter coming before the Board,
either the Pennsylvania Board members or the New
Jersey Board members shall have the right to
dissolve the Service Corp. as discussed below.

B) Before dissolving the Service Corp. as the
result of a Board deadlock on matters requiring a
qualified majority vote, a nonbinding opinion
regarding the subject matter of the deadlock must
be obtained from a national expert on port
matters chosen by the Board. In the event the
Board cannot agree on a single expert, such
expert shall be chosen as follows: the
Pennsylvania Board members shall choose one
expert and the New Jersey Board members shall
choose one expert; these two experts shall then
agree on a third expert who shall be solely
responsible for issuing the nonbinding opinion.

Dissolution

A) The Service Corp. may be dissolved at any
time by a qualified majority vote of either the
Pennsylvania Board members or the New Jersey
Board members. In the event the Pennsylvania
Board members vote to dissolve the Service Corp.,
such dissolution must be approved by the Governor
of Pennsylvania, and any three of the President
pro tempore of the Pennsylvania Senate, the
Speaker of the Pennsylvania House of
Representatives, and the minority leader of both the Pennsylvania Senate and House. In the event the New Jersey Board members vote to dissolve the Service Corp., such dissolution must be approved by the Governor of New Jersey.

B) In the event of a dissolution, the assets originally contributed by or leased by the respective states will be returned to those states. Any capital assets acquired by the Service Corp. directly would be sold and the proceeds thereof (after the repayment of any debt thereon) would be distributed equally to each state. The state wherein any property is actually located would have the right of first refusal to purchase such properties.

Executive Director

A) The Executive Director of the Service Corp. shall be chosen by a qualified majority of the Service Corp. Board.

B) The Executive Director's term shall be for a period not to exceed three (3) years; such period to be determined by a qualified majority of the Service Corp. Board. Such term may be renewed upon approval by a qualified majority of the Service Corp. Board.

C) Neither the Pennsylvania Board members nor the New Jersey Board members shall have the right to unilaterally remove the Executive Director.

Services to be Provided

A) During the transition period, which shall not exceed two years, the PRPA and the SJPC shall continue to operate their own facilities except for the services to be provided by the Service Corp., which services shall include the following:

1) Coordination and implementation of port-wide environmental compliance and, where necessary, advocating environmental policies affecting port operations.

2) Coordination and study concerning planned dredging of the Delaware River.

3) Coordination and implementation of port-wide facility security.

4) Coordination and dissemination of information concerning prospective clients,
economic development, and environmental issues.

5) During its first year of operation, and in conjunction with the DRPA, the PRPA, and the SJPC, establish a five-year Business Plan (which shall provide for periodic updates) for regional port development, including a plan for: (i) operating facilities and capital improvements; (ii) marketing and business development (including the final selection of a name for the Service Corp.); (iii) preserving existing jobs and creating new job opportunities; (iv) developing public sector policy for regional port labor issues and developing liaisons with terminal operators and stevedores; (v) obtaining specific commitments and proposals for operating and capital funds from each of the participating entities; and (vi) providing detailed operating and control structures and organization for the entity which would control the facilities and business of the PRPA and the SJPC. The Business Plan for regional port development in connection with ultimate implementation shall be subject to the approval of the DRPA, the PRPA, and the SJPC Boards.

6) Coordinate port marketing efforts in the following manner:

a) During the 2-year transition period, the Service Corp.'s marketing services shall be contracted from the PRPA, which shall serve as the marketing agent (the "Marketing Agent") for the Service Corp., and which shall regularly consult with a representative of the SJPC with respect to these activities, subject to the supervision of the Board.

b) The employees of the DRPA's World Trade Division shall become employees of the Service Corp., upon its formation, under the direction of the Marketing Agent.

7) With respect to the preservation of existing staff jobs and the creation of new job opportunities, the PRPA, the SJPC, the DRPA, and the Service Corp. shall not terminate any employees due to any of the actions taken pursuant to the matters
contemplated by this Term Sheet including, without limitation, unification.

8) Any other services as agreed to by the Board.

**Funding**

The DRPA shall provide all capital and, to the extent required, operating funds for the Service Corp.

**Facilities**

A) After the transition and upon the full implementation of unification, the PRPA and the SJPC each shall lease all of their facilities, including the Beckett Street Terminal, to the Service Corp. pursuant to separate master net leases.

B) Such facilities shall at all times remain the property of the respective state authorities and the proceeds of the sale of any such facilities shall be retained by the appropriate state.

C) Both the PRPA and the SJPC shall retain the right to withdraw any and all of their assets from the Service Corp.'s master lease for non-port purposes without any consideration being paid therefor to the Service Corp.

D) Both the PRPA and the SJPC shall retain the right to add additional facilities to the Service Corp.'s master lease with the affirmative vote of a qualified majority of the Service Corp. Board.

E) Facilities built by the PRPA or the SJPC after a Board deadlock on the issue of building a facility can be added to the master lease without Board approval as long as the applicable state authority pays for any and all costs related to the new facility.

F) After the transition and upon the full implementation of unification, DRPA shall transfer to Service Corp., without limitation as to other operations to be transferred, all of the AmeriPort operations. Thereafter, Service Corp. will have full responsibility for AmeriPort operations.

**Headquarters**

Philadelphia
Protocol for New Cargo

A) During the 2 year transition period, cargo that is currently being serviced at the respective facilities of the PRPA and the SJPC shall remain at those facilities. The Service Corp. shall develop, as soon as possible, a protocol which shall provide the basis for coordination and cooperation between the PRPA and the SJPC for existing cargo and for any new cargo coming into the port during the 2 year transition period.

Subsidies

A) During the 2 year transition period, Pennsylvania and New Jersey will continue to subsidize their respective port operations.

B) DRPA shall have responsibility for providing operating subsidies to the Service Corp. In the event operating subsidies from the DRPA are insufficient, Pennsylvania and New Jersey shall provide operating subsidies to the Service Corp. in equal amounts, subject to the exercise of any other remedy which may be available to them.

Gubernatorial Veto Power

A) The Governor of New Jersey shall not have the right to veto actions taken by the Service Corp. Board. If the New Jersey Governor vetoes an action of the DRPA Board relating to the Service Corp. or other regional port matters, including, but not limited to, funding for the Service Corp., such veto shall be deemed a request for dissolution of the Service Corp.

Approval of Documentation

A) All documents evidencing and implementing the Service Corp. and the Business Plan shall be subject to final approval of the DRPA, the PRPA, and the SJPC Boards. This requirement shall be applicable to both the transition documents and the ultimate implementing documents.

B) This Term Sheet shall be submitted for approval to the PRPA Board and the SJPC Board within thirty (30) calendar days of the date hereof.

(C) All documents and transactions contemplated hereby shall comply with all applicable laws, regulations, indentures and agreements applicable to or entered into by the DRPA, PRPA and SJPC.
PORT OF DULUTH-SUPERIOR
SUGGESTED COMPACT

1977
(STATE OF WISCONSIN)

AN ACT to ratify, enact into law and enter into the Seaway Port of Duluth-Superior Compact and relating to creating the Seaway Port Authority of Duluth-Superior and providing for representation of this state on the port authority created by the compact.

Analysis by the Legislative Reference Bureau

This is a preliminary draft prepared for Senator Theno at the request of the commission on interstate cooperation. It is not ready for introduction as it contains only the first draft of the compact and does not contain the requisite state enabling legislation.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. The Seaway Port of Duluth-Superior Compact is ratified, enacted into law and entered into by this state and the state of Minnesota and with all jurisdictions legally joining in the compact in the form substantially as follows:

SEAWAY PORT OF DULUTH-SUPERIOR COMPACT

The party states solemnly agree:
Article I
Purpose and Intent

(1) That the purpose of this compact is, through means of joint or cooperative action, to cooperate in the development and management of the ports of Duluth, Minnesota and Superior, Wisconsin; and

(2) That this purpose is served through the establishment of a seaway port authority which shall promote the general welfare by providing necessary services to harbor users, promoting the economic development of the area by optimizing the flow and handling of cargo through the ports, protecting the environment of the port area, developing a comprehensive plan for the port area and by representing the interests of the ports in state, national and international discussions of water, environmental and transportation policies.

Article II
Port Authority Created

Section 1 (Members): There is hereby created a joint interstate authority to be known as the Seaway Port Authority of Duluth-Superior. Each party state shall appoint 5 commissioners of the authority; the manner of appointments, terms of office, compensation, provisions for removal or suspension, or appointments to fill vacancies shall be determined by each party state, but each commissioner shall be a resident of the state from which he or she is appointed.

Section 2 (Voting): No motion shall be put to a vote unless
at least 3 commissioners from each party state are present. Motions regarding bonding, or other financial matters shall require the affirmative vote of at least 3 members from each party state for passage of the motion. In all other matters, a majority of all votes cast shall be sufficient to pass or defeat a motion.

Section 3 (Officers): The board of commissioners shall annually elect from among its members a chairperson, a vice chairperson who shall not be a resident of the state represented by the chairperson, a secretary and a treasurer.

Section 4 (Bylaws): The board of commissioners may adopt such rules and bylaws as are necessary for their operation, consistent with the laws of the party states.

Section 5 (Meetings): The board of commissioners shall meet at the call of the chairperson or at the call of at least 3 commissioners of a party state, upon 5 days' notice, but at least once in each month. Meetings shall be conducted in accordance with the laws of the state in which they are held.

Section 6 (Advisory Committees): The board of commissioners may establish advisory committees consistent with the laws of the party states.

Article III

Staff

The board of commissioners shall appoint an executive director and such other staff as may be necessary, on a full or part-time basis. Subject to the control of the board, the executive director shall be in complete charge of the administrative functions of the
authority, and shall have additional powers and duties as the board may delegate, except that the chief financial officer shall be appointed by the board and shall report directly to it.

Article IV

Operating Reports

Section 1 (Minutes): The board of commissioners shall compile a written record of its proceedings, and the minutes shall be a public record.

Section 2 (Reports): On or before July 1, of each year, the authority shall make a report to the governor and legislature of each party state. Such reports shall include the activities of the commission during the year just concluded, the activities intended for the year then commenced, and the appropriations, gifts, grants, and expenditures as verified by audits conducted as required under Article VI, Section 3.

Article V

Legal Status

The authority shall be a body politic and corporate in the party states with the right to sue and be sued.

Article VI

Finance

Section 1 (Program Revenue): The authority may collect, subject to the terms of this compact and the laws of the party states, such fees, charges, fines and forfeitures as may accrue to it in the conduct of its lawful duties.

Section 2 (Donations, gifts, grants and appropriations): The
board of commissioners may accept, for any of its lawful purposes
and functions, donations, gifts, grants and appropriations of money,
property equipment, supplies, materials and services from the fed-
eral government of the United States, from any party state or from
any department, agency or municipality thereof, or from any insti-
tution, person, firm or corporation.

Section 3 (Annual Audit): The authority shall keep accurate
accounts of all receipts and disbursements which shall be audited as
of March 31 of each year consistent with the laws of the party
states.

Section 4 (Expenditures): All expenses incurred by the
authority in exercising the powers conferred, or executing the
duties imposed upon it by this compact, unless otherwise provided in
this compact, shall be from the funds then available to it. The
authority shall not go into debt except as provided by the party
states. The authority shall not pledge the credit of any state or
municipality without the consent of the state or municipality.

Article VII

Entry Into Force and Withdrawal

Section 1 (Enabling Legislation): This compact shall become
operative immediately after, passage of an act by the party states
incorporating the provisions of this compact into the laws of such
states, and upon consent to its provisions by the Congress of the
United States.

Section 2 (Withdrawal): A state may withdraw from this
compact by law, except that no such withdrawal shall take effect
until 12 months after the governor of the withdrawing state has notified the governor of the other party states, in writing, of the intent to withdraw. No withdrawal shall affect any liability already incurred by or chargeable to a party state at the time of the withdrawal. In the event of a withdrawal, property, assets and liabilities shall be divided in accordance with an agreement ratified by the states.

Article VIII

Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected. If this compact or any part thereof is held contrary to the constitution of a party state, the compact shall remain in full force and effect in the other party state and, as to the state so affected, in full force and effect as to all severable matters.

Article IX

Amendments

Proposed amendments to this compact, having been approved by the party states, shall be submitted to the Congress of the United States for consent.
Article X

Powers and Duties

(1) If a party state does not, by law, specify the powers conferred upon and duties required of the authority, then the authority may exercise the powers and duties in that state which that state affords to any other port authority.

(2) Powers and duties which may be conferred upon or required of the authority may include, but are not limited because of enumeration, the right to acquire and hold property, the right to construct, lease, alter, maintain and operate harbor facilities, the power to engage in industrial and other economic development including the issuance of revenue bonds, and the power to compel the attendance of witnesses and the production of records when necessary for inquiries into port activities.

(End)
SUGGESTED ENABLING LEGISLATION FOR COMPACT

(WISCONSIN)

A compact for the development and management of the ports of Duluth, Minnesota, and Superior, Wisconsin, is hereby ratified, enacted into law, and entered into with the state of Minnesota, in the form substantially as follows:

(TEXT OF COMPACT IS INSERTED AT THIS POINT)

Section 14.83 of the Wisconsin statutes is hereby created.

(1) AUTHORITY CREATED

(a) There is hereby created a joint interstate authority to be known as the Seaway Port Authority of Duluth-Superior. A five member board of commissioners shall be appointed in the following manner:

(1) One person appointed by the chairman of the county board of Douglas county and confirmed by the board, to a 4 year term, the first full term to commence in 1978.

(2) Two persons appointed by the mayor of the city of Superior and confirmed by the city council, to 4 year terms, the first full terms to commence in 1979 and 1981.

(3) One person appointed by the governor, to a 4 year term, the first full term to commence in 1980.

(4) One person appointed by the legislature, the appointment to be made alternately by the houses, and to be made as are standing committees, to a 2 year term, the first full term to commence in 1978, and the initial appointment to be made by the Assembly.

(b) Initial appointments, as necessary, to partial terms, shall be made within 90 days of the effective date of this act.

(c) No person may be serve as a commissioner for more than a total of 12 years.

(d) In the event that a vacancy occurs, a replacement shall be appointed to complete the unexpired term in the same manner as the original appointment.
(e) No person may be appointed a commissioner unless he or
she is a resident of this state. No person may be appointed
a commissioner by the mayor of the city of Superior or by
the chairman of the county board of Douglas county unless
he or she is a resident of the city of Superior.

(f) A commissioner may be removed from office in accordance
with (insert citation).

(g) Commissioners shall file statements of economic interests
in accordance with (insert citation).

(h) Members shall serve without compensation except that they
may, at the discretion of the board, receive per diem within
the limits allowed under Internal Revenue Service Regulation
(insert citation), or reimbursement for actual and necessary
expenses incurred in the performance of his or her duties.

(i) The board of commissioners may establish advisory committees
as it deems necessary. Members of advisory committees need
not be residents of party states. Levels and manner of
compensation, if any, for advisory committee members shall
be determined by the board.

(j) Persons employed by the Seaway Port Authority of Duluth-
Superior shall be considered to be employees of the state
of Minnesota for employment purposes, however, this state
shall pay, from the appropriation under (insert citation),
half of any contribution to an employment-related program
for which the state of Minnesota is liable.

(k) A copy of all minutes and other publications and reports
produced by the authority shall be filed with the Interstate
Cooperation Commission in accordance with 13.54 (3) and
they shall be public records unless otherwise specified by
law.

(l) The authority shall annually submit an audit of its financial
operations to the Legislative Audit Bureau, the audit to
have been conducted by a certified public accountant. Nothing
in this section shall be construed to limit the power of the
Legislative Audit Bureau to conduct an audit of the authority's
records.

(m) The board of commissioners may adopt such rules and by-laws
as are necessary for their operation, but all meetings held
in this state shall be conducted in accordance with (insert
citation).

(2) JURISDICTION The authority shall exercise its powers and duties
within the port areas as defined in Article XI and in such other
places as may be designated by the city of Superior, but such
areas shall not include any land or water more than 10 statute
miles from (designate point).
APPENDIX - LIST OF MATERIALS AVAILABLE

Minnesota IPAC Law (M.S. Laws 1976, Chapter 270)
Wisconsin IPAC Law (W.S. Laws 1975, Chapter 376)
Minutes of All IPAC Meetings
IPAC Memorandum "Advantages and Issues in Merging Duluth and Superior Ports"
Summaries of Duluth and Superior Port Authority Laws
IPAC Memorandum "Goal or Purpose, Organization and Staffing of Merged Authority"
IPAC Memorandum "Intergovernmental Problems with a Merged Port"
IPAC Memorandum "Powers of a Merged Port"
IPAC Memorandum "Financing for the New Merged Port Authority"
IPAC Memorandum "Tonnage Fees Freeze of the Port Authority Harbor"
New York-New Jersey "Port Compact of 1921"
IPAC Memorandum "Final Recommendations to the Legislature and the Cities: Some Alternatives"
Slide Presentation (Betty Hetzel-Superior) on Duluth-Superior Port Audit Reports - Duluth Seaway Port Authority
1975 Booz, Allen, & Hamilton Report on Merging the Port of Chicago
The Economic Impact of Minnesota's World Port - SPAD
Various Reports of Professor Harold Mayer from the University of Wisconsin
AN ACT

relating to the authority of certain navigation districts to
acquire land, equipment, or improvements and issue bonds.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 62, Water Code, is amended
by adding Sections 62.1071 and 62.1072 to read as follows:

Sec. 62.1071. ACQUISITION OF LAND, EQUIPMENT, OR
IMPROVEMENTS IN CERTAIN COUNTIES. (a) This section applies only
to a district that has a county of jurisdiction with a population
of more than 2.8 million.

(b) A district may acquire, by any means except by
condemnation, and own land, equipment, or improvements located in a
county that is adjacent to the district's county of jurisdiction if
the commission considers the land, equipment, or improvements:

(1) necessary, required, or convenient for any purpose
necessary or incident to the development and operation of navigable
water or a port located in the district's county of jurisdiction or
a county adjacent to that county; or

(2) may be in aid of, or necessary, required, or
convenient for, the development of industries and businesses on the
land in the county of jurisdiction or a county adjacent to that
county.

(c) Notwithstanding any other law or municipal charter, a
district may acquire, and any public or private owner may dispose

of, land, equipment, or improvements on any terms to which the
commission and the property owner agree.

(d) If in connection with an acquisition or disposition of
land, equipment, or improvements under this section the governing
body of a municipality decides to discontinue operations of a port,
as a utility of the municipality or otherwise, the acquisition or
disposition of the land, equipment, or improvements may not be
completed until a majority of the qualified voters of the
municipality voting at an election called and held for that purpose
approve of the discontinuance of the operations.

(e) The commissioners may change the name of the district in
connection with the acquisition of land, equipment, or improvements
under this section.

(f) Notwithstanding the source of the revenue, a district
that acquires land, equipment, or improvements under this section
may use or pledge to the payment of obligations of the district for
the development of any district facility, regardless of the
location of the facility, any revenue of the district, except as
provided by Section 62.209.

(g) Section 41.001(a), Election Code, does not apply to an
election held under this section.

(h) Except as provided by this section, an election held
under this section must be conducted as provided by the Election
Code.

Sec. 62.1072. ADDITIONAL COMMISSIONERS FOR ACQUISITIONS FROM
CERTAIN MUNICIPALITIES. (a) A district that acquires land,
equipment, or improvements under Section 62.1071 from a

municipality with a population of more than 35,000 that operates
navigation and port facilities and that is located in a county
adjacent to the county of jurisdiction may add positions for
members of the commission, as determined by the commission. Not
more than two positions may be added to the commission under this
section.
(b) The governing body of the municipality in which the
acquired land, equipment, or improvements are located shall appoint
the additional commissioners.
(c) Commissioners serving in the positions added under
Subsection (a) shall serve terms that are consistent with the law
governing the terms of the other commissioners.

SECTION 2. Subchapter F, Chapter 62, Water Code, is amended
by adding Section 62.209 to read as follows:
Sec. 62.209. USE OF BOND PROCEEDS FOR CERTAIN ACQUISITIONS
OF CERTAIN DISTRICTS. A district to which Section 62.1071 applies
may not spend for the acquisition of land, equipment, or
improvements under that section the proceeds of bonds authorized by
the district's voters before the district undertakes the
acquisition.

SECTION 3. The importance of this legislation and the
crowded condition of the calendars in both houses create an
emergency and an imperative public necessity that the
constitutional rule requiring bills to be read on three several
days in each house be suspended, and this rule is hereby suspended,
and that this Act take effect and be in force from and after its
passage, and it is so enacted.

______________________________    ________________________________
President of the Senate       Speaker of the House
I hereby certify that S.B. No. 1665 passed the Senate on
May 7, 1999, by the following vote: Yeas 29, Nays 1.
Secretary of the Senate

I hereby certify that S.B. No. 1665 passed the House on May 22, 1999, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

__________________________
Date

__________________________
Governor